THE Attourneys Academy:

OR,

THE MANNER AND Forme of proceeding practically, vpon any Suite, Plaint or Action whatsoeuer, in any Court of Record whatsoeuer, within this KINGDOME:

ESPECIALLY,

IN THE GREAT COVRTS AT *Westminster*, to whose motion all other Court of Law or Equitie; as well those of the two Prouinciall Counsailes, Those of Guild-Hall *London*; as Those of like Cities and Townes Corporate, And all other of Record are diurnally mooued.

With the Moderne and most vsuall Fees of the Officers and Ministers of such Courts.

Publisht by his MAIESTIES speciall priuiledge,

AND

Intended for the publique benefit of all His Subiects.

Summum hominis bonum, bonus ex hac vita exitus.

THO: POVVELL
Londino-Cambrensis.

LONDON,
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TO

THE RIGHT REVEREND IN GOD,

RIGHT HONOVRABLE IN his KING, Right ſeruiceable in his Country, *and Right able in himſelfe*; IOHN *Lord Biſhop of* LINCOLNE, *and Lord Keeper of the Great Seale* of ENGLAND.

I See the Storme a comming; whether ſhall I
ſeeke couert in the Mountayne, or the Valley?
Or elſe betake me to the ſilent Streame,
and let the Tempeſt burſt, and ſpit his ſpleane.
Vpon the earth? So I be ſafe and ſauen,
while I ſhall ride at Anchor in the Hauen:
Alas, the Fatall Siſter-hood (in ſport)
will there betray thee; For within the Port,
Shipwracke hath diſappoynted and diſgrac't
the Prouerbe of *Long lookt for comes at laſt*,
Then wil I launch into the very Maine,
to ſee if *Neptunes* deitie will deyne
To Fence and fling his Trident on my head,
by power whereof all Stormes are ſcattered:

Which, if hee do deny, my comfort is,
my Shipwracke ſhall haue noble Witneſſes,
I ſinke not in a Ditch, nor by the Shore,
But dye and lye at *Neptunes* Palace doore.
'Tis thou alone that bear'ſt the Triple Mace,
canſt, in the very ſpeede of all their chaſe,
Reſtraine their purſuite; doe but keepe in awe
their nimble, neate *Nereides* of the Lawe;
Charge *Æolus* (as hee does honour thee)
hee doe not diſ-imbulke his cheekes at mee.
I haue done nothing to offend thy Traine,
rauiſh't *Amemone* (as the Poets faine)
Nor ſought to rob the Sea-gods bed of Corall,
I meane Lawes myſteries: (For that's the Moral.)
If this be ſo, vouchſafe mee thy Protection,
that I may bring this Worke vnto perfection.
Then will I ſing thy Fortune and thy Fame,
and proue, that *Williams* from the *Troians* came
Shew, where his Auncestors long ſince did build
a Seate, which hitherto their Name haue filld.
Now may that Name and Honour ne'r expire,
but in a melting Firmament of Fire.

Lutum

Inmane Victoriæ:

THOMAS POWELL.

TO

TO

TRVE NOBILITIE AND TRYDE LEARNING, BEHOLDEN

To no Mountaine for Eminence,
nor Supportment for his Height,
FRANCIS, Lord *Verulam*, and
Viſcount S^t. *Albanes.*

O Giue me leaue to pull the Curtaine by,
That clouds thy Worth in ſuch obſcuritie,
Good *Seneca*, ſtay but a while thy bleeding,
T'accept what I receiued at thy reading:
Heere I preſent it in a ſolemne ſtraine,
And thus I pluckt the Curtaine backe againe.

The ſame

THOMAS POVVELL.

T. N.

In Commendation of this *VVorke*:

TIs good, 'Tis common good, what would you (more?
It will be more good, when there is more ſtore.

——— *Puer, Sacer locus eſt, extra meite.*

TO

TO THE READER.

Sta, Lege, Plora,
Pro me (precor) ora.

FRIENDLY *Reader, Thy Religion and Zeale to common good, may somewhat stead, but not secure me: For, if thou beest but a temperate man in this age, wherein the Planets themselues are so extreamly distempered, the Ayre is sicke of their disease, and the lower bodies doe all complaine, and are shaken with the same feauer; Thy calme and plyable constitution:*

Vnlesse thou be superlatiue & superstitious in the faith and profession of Publique Weale, thou shalt be

too too innerued to meete the priuie malice of those who are on'y studious of priuate profit; Or to make vp me and my good meaning to the generall aduantage.

Thou maist easily conceiue, that my ayme is not leuelled at any Lucratiue Land-marke, seeing no endeauour can afford a more mercilesse and immercenarie returne then this: To which, the pitie of my poore Country-men did impresse and send mee foorth in the first ranke, to be exposed vnto the most danger: Which, with all other difficulties in the Attempt, I haue receiued with the one hand, and cast away with the other: I haue euer held it more honour and happines to hasle my selfe head-long into the flaming Temple, then to ensafe me in the midst of the mutinous Schimeonites.

1. Indeed, I must confesse, That my selfe was the most vnworthy and vnable of many to vndergo this Taske:

2. That I haue waded thus farre, without calling of those of the Mysterie to my guidance:

3. It may be, that I haue stept besides the common Causway, and trespassed pedibus ambulando vppon some mens inclosure:

4. Perhaps I haue sometimes erred, and miss set the Needle of my Compasse:

5. And admit I haue not trauelled so far as the Seas offered Passage and Passe-port vnto me.

1 All this is easily answered: For you must vnderstand, That the necessitie of the Voyage did im-

barke

barke me, when in all this age past before vs, no one (how able soeuer) would vndergoe the discouerie: None would, or will preferre the Prayer of posteritie, before the purchase of the present.

2. I knew not whom to trust or call to Guide, lest I should betray the whole Voyage.

3. Beyond the Pole of Property, I care not in what Streame my Keele leaues her dimted impression.

4. Beyond the Line, the old Compasse is to be laid by, and the new one is to be vsed.

5. I haue trauelled as farre as the Victuall and Tackle, which I was able to prouide with my ready stocke, would beare me. And it shall be held amongst all well-affected English Seafarers, worthy the hazard, charge, and time bestowed vpon it, In regard that I haue in this leading discouery set forth where the way lyes for farther Nauigation, to driue a Trade euen to the vtmost confines of those parts, and to make perfect and perpetuall commerce betweene vs and them.

The like are my endeauours for the stling and establishing of a certaine course of compliance between the Officers and Ministers of our Lawes and their Clients, which would distinguish and set apart the vnlearned and vnconscionable crue, from those whose endowments of acquisition, and indeerements of conscience, and innated composition speakes them farre more worthy.

For my faults of deficience, I am not ashamed to inuite the supply of those who haue the aduantage of

breeding in their particular Offices on their sides, if they will afford it.

For my faults of Insufficiency, I doe not blush at them: Barnardus non videt omnia: *Hee that knowes most in the practice of the Lawes, knowes most how impossible it is with the single qualitie of any one man liuing, to reduce the infinite differing parcels of this Account, into a perfect and certaine Summe at the first collation or calculation thereof.*

For my Printers faults of all kindes, I giue him kindly to your mercy.

Would you haue me now to leaue all vndone, because some part cannot bee done to perfection at the first?

Will you blame me for those few imperfect quidlibets, *without whose company and fellowship, so many vsefull* quodlibets *with which the ensuing Tractate is forced, had neuer beene able to hold out so teadious a Journey.*

Surely, whatsoeuer you bee that shall doe it, I must tell you, that the Million Multitude will repute and report you for a second Alexander, *not the Conquerour, but the Copper-Smith; not famous for triumph, but for Trade, Not* Alexander *who in his greatnesse would bee worshiped as a God himselfe; but* Alexander *who in his leather Apron would haue the very Puppits which his hand rough-hued, drawe an adoration and reuerence amongst the people.*

Good

to the Reader.

Good Alexander, *do not feare thy trading,*
Peruſe me not, though thou deny thine ayding:
I aske but ayde of Patience and of Time,
To frame and finiſh this poore worke of mine:
To make, to mend, to perfect and to poliſh,
What Allexanders *wiſedome thinks ſo foliſh.*

To the reſt, I reſt

As iealous of your loues,

as zealous of your liking,

THO. POVVELL.

THE

THE ATTOVRNEYS ACADEMY.

The manner of proceeding in the CHANCERIE.

THE CHANCERIE.

NOtwithſtanding the practice heere before this time hath bin, That no *Sub pœna* ſhould be ſued forth of the Court of *Chancerie*, without a Bill of Complaint firſt exhibited. Yet laterly, for the eaſe of all Suitors and Subiects, it hath beene thought good, that euery man may haue a *Sub pœna* out of the ſame Court, without any Bill firſt exhibited.

This *Sub pœna* is the leading proceſſe of this Court, by which the party Defendant againſt whom the Complaint is intended, is ſummoned and required to appeare, and make anſwere to the Complainant, vnder a certaine paine, and at a certaine day to come.

The dayes of *Returne* heere, are the vſuall *Returnes*, as in the ordinary *Almanack*, Or elſe a *Sub pœna* may bee returnable at a certaine day, after any the ſayd vſuall *Returnes*, or the great Feaſt dayes, from whence the *Returnes* take their denomination, So that you muſt adde (*Prox.*) in place where cauſe ſhall require.

As if the Feaſt Day be to come: Then it muſt be, *Prox. Futur. in vnum menſem.*

But if the Feaſt day bee paſt, then it muſt be a *die Paſchæ in vnum menſem prox. futur.*

And the like to other *Returnes*, before or after other Feaſt dayes.

The *Sub pœna* being by the Complaynant or ſome other by him appoynted, ſerued, and returnable in manner (as aforeſayd:) The Complainant hath liberty to put in his Bill, vntill the day following the fourth day after euery the ſayd *Returne* (if the *Sub pœna* bee returnable vpon the certaine *Returne* day.)

And you muſt account the Returne day, and the fourth day after it, for two of the ſayd foure dayes.

And if the Bill bee not fyled on the next day after

after the ſayd fourth day: The Defendants Attourney (hauing the *Sub pœna* or *Labell* thereof, wherewith the Defendant was ſerued, Or an Oath that the *Sub pœna* was ſerued) hee may get fitting Coſts in euery ſuch caſe.

When the Defendant hath ſo got Coſts, he may haue a *Sub pœna* whereby to commaund the Complaynant, preſently vppon the ſight thereof, to pay the defendant or the bringer therof, the ſayd coſts; (as aforeſayd.) And if the complaynant do refuſe to pay the ſayd coſts, accordingly: Then the Defendant may, vppon *affidauit* made, that the *Sub pœna* for coſts was ſerued, haue an Attachment directed to the Sheriffe of the county, to attach the Complaynant therefore.

And vpon returne made by the Sheriffe, that the Complaynant cannot bee found, an Attachment with Proclamation may bee ſued forth againſt the complaynant.

And that Proclamation beeing likewiſe returned by the Sheriffe (as aforeſayd.

Then a Commiſſion of Rebellion may bee ſued forth againſt the complaynant.

But on the contrarie ſide, if the Complainant do put in his Bill, And the Defendant appeareth not, the next day after the coſts day.

Then the Complainant (vpon Oath made that the Defendant was ſerued with a *Sub pœna*) may haue an Attachment, and farther Proceſſe vpon

like Returnes,(as in caſe aforeſayd.)

Where note, that the party which maketh Oath that hee ſerued the *Sub pœna*: Or that the *Sub pœna* was ſerued, muſt ſweare as followeth.

That he deliuered the *Sub pœna* to the Defendant.

Or he ſhewed the *Sub pœna* to the Defendant, and deliuered to him a note of the day of his appearance.

Or hee left the *Sub pœna* at the Defendants dwelling houſe, where the Defendant moſt abideth.

Or hee ſhewed the *Sub pœna* at the Defendants dwelling houſe to his Wife, or ſome of his ſeruants, and there left the *Label* of the *Sub pœna*, or a note of the day of his appearance.

Or hee muſt ſweare that he heard the Defendant confeſſe that he was ſerued with *Sub pœna*.

And if the Defendant do appeare within the time limited.

Then the Complainants Attourney may giue vnto the Defendants Attourney, on the ſaid day after the Coſts day, a Rule, that the Defendant do make anſwere to the Complaynants Bill, by the ſame day ſeuen night then next to come. This Rule and day giuen, muſt bee entred into the Regiſter.

And if the Defendant do not anſwere by the prefixed day ſo entered.

Or

Or if hee doe not otherwiſe ſatisfie the Court by ſufficient cauſe and occaſion of the delay:

Then the Complainants Attourney may take forth an Attachment againſt the Defendant.

The Cauſes whereby the Defendant may ſatisfie the Court of his ſayd delay in anſwere, are theſe for the moſt part. (viz.)

HE cannot make direct anſwere, without ſight of his Euidences or VVritings which are in the Country:

Or hee cannot anſwere without conference had, firſt with ſome perſon named in the ſayd Bill:

Or with ſome perſon whom the matter toucheth:

Or that the Defendant is not able to trauell.

Of euery which reaſons aforeſayd, Oath muſt be made.

ANd vpon Oath ſo made:

Or by an eſpeciall motion made for this purpoſe:

The Defendants Attourney may procure a

Dedimus poteſtatem, directed to certayne commiſſioners in the countrey, to take the defendants anſwere there.

And the cauſe whereupon this *Dedimus poteſtatem* is granted, muſt be entred into the Regiſter.

So likewiſe in caſe where the defendant doth not anſwere within the limited time, and an Attachment is therefore awarded againſt him: The Clerke which maketh the ſame Attachment, muſt enter it into the Regiſter; ſhewing the cauſe wherefore it was granted.

But if no day bee giuen to the defendant to anſwere: Then the defendant hath liberty to anſwere at any time during the Terme.

And if hee doe it not within that time: Then an Attachment may bee ſued foorth againſt him of courſe. And the ſame, with the cauſe thereof, muſt bee entred into the Regiſter: (*viz.*) That the defendant appeared, and departed without anſwere.

If the *Sub pœna* bee returnable ſo neere vnto the end of the Terme, that there cannot bee a day giuen to the defendant to anſwere, hee muſt at his perill anſwere by the ſame day ſeuen-night following the day of his apparance, although it bee in the Vocation. For the *Chancerie* is alwayes open.

If the *Sub pœna* bee Returnable on the laſt *Returne* day of the Terme it ſelfe: Then the defendant is at Libertie to appeare the firſt returne

returne of the Terme Following:

But if it be a day certaine, although the ſame bee the laſt day but one of the Terme, yet the Defendant muſt appeare, and anſwere by that day ſeuen-night, next Following the ſayd Apparance.

If the *Sub pœna* bee returnable immediately, though it be ſerued on the laſt day of the Terme, ſo it bee ſerued before the riſing of the Court; The Defendant muſt alſo appeare and anſwere, by the ſame day ſeuen-night.

And if the defendant make Oath, that hee cannot anſwere without Writings, &c. or conference with ſome other perſon: Or if hee haue a *dedimus poteſtatem*, and Commiſſion to make his Anſwere: Hee muſt, at his perill, procure his Anſwere to bee put in, before the day after the firſt Coſts day of the next Terme Following; vnleſſe it be Trinity Terme: And then, and in ſuch caſe, it muſt be put in the ſecond day: or elſe the complainants Attourney may, vpon ſuch default, make an Attachment againſt the defendant, and enter the ſame into the Regiſter, for that hee hath not Anſwered by the day prefixed.

Or in other caſe, That he appeared, and departed without Anſwere: Or otherwiſe, That he did not returne the *dedimus poteſtatem* at the day prefixed, &c. and as the caſe ſhall require.

And though the cuſtome hath bin heretofore,

That

That by reaſon that the Defendant may abuſe this liberty giuen to him (as aforeſayd) in delaying the Complaynant by *Demurrer* in Law: No ſuch *Demurrer* ſhould bee allowed; yet is now permitted, That the Defendant may, by his Anſwere returned by *Dedimus poteſtatem*, *Demurre* in Lawe: For that hee, not appearing in perſon at the firſt, his Counſaile in his abſence may not *Demurre*, though the Complainants Bill bee inſufficient: Becauſe euery *Demurrer* muſt bee deliuered into the Court by the Defendant in proper Perſon, and not by his Attourney, except in Caſes where the defendant is not able to appeare in Perſon. In which Caſes it is vſed; That the defendant may deliuer his *Demurrer* to the Commiſſioners: Who, though they bee by the expreſſe words of their Commiſſion, to receiue the defendants Anſwere vppon his Oath: yet, if the defendant deny to anſwere, they are to certifie the ſame, with the reaſons by him alleadged, wherefore hee will not anſwere vpon Oath; leauing the ſame to the conſideration of the Court: And they are to take and returne ſuch Anſwere as the defendant ſhall deliuer vnto them.

But where the Defendant hath before appeared, and taken coppy of the Complaynants Bill, and hauing had conference with his Counſayle thereupon, is by him reſolued that hee cannot make a direct Anſwere, by reaſon of ſome matter

matter in the ſayd Bill layd to his charge, which hee cannot cleare without ſight of Euidences, VVritings, or Conference with ſome Perſon; There is no reaſon, that after time ſo giuen to the Defendant, from the day of his Appearance, vntill the beginning of the next Terme following he ſhould be admitted to *demurre* to the Complaynants Bill:

For if there had beene any cauſe of *Demurrer*, Hee might haue demurred at the day giuen him to Anſwere; So that the Complaynant might haue had time to haue had the opinion of the Court, whether the *Demurrer* were good, or not.

So, if the Defendant, after ſuch time ſo taken, doe *demurre* in Lawe; The Complaynant ſhall haue an Attachment of courſe, as though no anſwere at all had beene put in: The ſayd Attachment is to be entred thus, (*viz.*) For that the defendant hath not anſwered by the day to him giuen, therefore an Attachment, &c.

Vpon the returne of this Attachment, hee may haue the like Proces as aforeſayd.

And in caſe where there be more Defendants, euery defendant ſhal be puniſhed alike, for his owne like offence;

Except in caſe where a *Subpœna* is granted againſt a man and his Wife: In which caſe a man ſhall bee vnder puniſhment for his VViues Offence.

For if a man bee ſerued with a *Subpœna* in *London* againſt him and his Wife, (ſhee being in the Countrey) yet if hee doe not ſatisfie the Court, by ſome of the courſes before mentioned, as well for his Wife, as for himſelfe (hee beeing here in perſon (an Attachment ſhall be granted againſt him and his Wife, as though he had neuer appeared, which Attachment ſhall be entred; For that *A. B.* VVife vnto *C. D.* hath not anſwered according to a day to them prefixed: Therefore an Attachment is awarded againſt *C. D.* and *A. B.* his wife.

If the Complaynant dye, his Heyre or Executor, who hath the intereſt of the thing whereof hee complayneth, may put in a Bill of *Reuiuor* againſt the Defendant, his Heyre or Executor, as the caſe ſhall requite.

Alſo, It is to bee remembred, that if the Complaynant Exhibite his Bill againſt a Man and his VVife, for matter which wholly concerneth the VVife: VVhereunto they make Anſwere, and after anſwere made, the man dyeth, The Complaynant cannot proceede in that ſuite againſt the VVoman, without a Bill of *Reuiuor*, becauſe the woman ſhall not bee conſtrayned to ſtand to that Anſwere, which ſhee together with her Husband, or ſolely (as Wife vnto the Man) made to the Complaynant, for that ſhee was then vnder Couerture.

And after her husbands death (ſhe being ſeized

zed or poſſeſſed of the thing in Controuerſie as in her former eſtate) may(if ſhee pleaſe) make a new anſwere, and ſhall neuer bee bound or concluded by the Anſwere which ſhee made in her Husbands life-time, for that ſhee was then vnder Couerture. And yet (if ſhee ſo pleaſe) ſhee may ſtand to that former anſwere of hers,and proceed in that ſuite accordingly.

But if the Complainant exhibite a Bill againſt a *feme* ſole, whereunto ſhe maketh anſwere, and afterwards marrieth, the Complainant may proceed againſt her Husband and her, without any Bill of *Reuiuor*: And her husband ſhall be bound by that anſwere which ſhe made before marriage, becauſe ſhee ſhall not be admitted to take aduantage of her owne act.

VVhere (on the contrary) if a *feme* ſole exhibite her Bill of Complaint,wherevnto the Defendant anſwereth,and afterwards ſhe taketh an husband, her husband and ſhee ſhall not proceede againſt the Defendant, without a bill of *reuiuor*; becauſe her ſuite is abated by her owne act,whereof the Defendant may take aduantage.

And if a Man and his Wife exhibite a bill of complaint,whereunto the Defendant anſwereth, and the man dyeth, the woman ſhall bee at her choyce whether ſhe wil exhibite a new bill,or proceede vppon the Former: And the Defendant ſhall be bound to his Anſwere made to the Man and his VVife.

Alſo, if two ſeized of ioynt eſtate; or two Executors of one Teſtament; Or two *Obligors* or *Obligees* Exhibit a Bill of complaint, whereunto the defendant anſwereth, and one of them dyeth;

The Suruiuor of them may proceed againſt the defendant, without any Bill of *Reuiuor*.

And in all caſes where a Bill of *Reuiuor* is requiſite, after the ſayd Bill exhibited, and a *Sub pœna* ſerued on the Defendant to that purpoſe: The Complainant ſhall be in the ſame caſe, as he for his Predeceſſors was, at the time when the cauſe of *reuiuor* accrewed, vnleſſe the Defendant ſhall appeare vppon the ſayd *ſub pœna*, and by way of anſwere ſhewe good cauſe to the contrary: which cauſe muſt be, That the Complaynant in the Bill of *reuiuor*, is not Heyre, or Executor, nor ſtandeth in the like caſe, nor hath the like intereſt, or the like cauſe of complaint, as before in the Former ſuite:

And no other cauſe is to be allowed.

If the Complaynant exhibit his Bill of complaint, for Title of any Lands, not of the yearely value of Forty ſhillings: And the ſame be proued by *Affidauit*, or depoſed, the defendant ſhall be diſmiſſed.

Alſo, if the defendant demurre to any Bill exhibited againſt him, or diſclayme: The Complainant cannot reply:

For if the defendant be called vp by *ſub pœna*,

ad Reiungendum, hauing before made no other answere, but a *Demurrer* or a *Disclaymer*, hee shall haue costs for vniust vexation.

But after the Defendant hath answered, the complaynant hath liberty all that Terme to Reply at pleasure.

And if hee Reply not that Terme: The Defendants attourney may giue to the complaynants Attourney a seuen nights day in the time of the next Tearme following to Reply, which day beeing past, and no Replication brought in; On the day then next after it, the Defendant may haue costs, as in case of a Bill to bee recouered.

But if the complaynants Replication be put into the Court, the defendant can haue no costs allowed vnto him.

But then the defendant may, if he will, *Reioyne gratis* to the *Replication*, and enforce the complaynant to go to commission.

Or else he may haue commission to examine Witnesses on his owne part against the complaynant, and shall haue the carriage thereof.

This commission shall bee directed to Foure such persons as the defendant shall name, Or to any three or two of them, without any warning to be giuen to the complaynant.

But if in this case the complaynant will, hee may ioyn in commission, and haue the carriage of it himselfe.

And then he muſt name two indifferent Commiſſioners: and the Defendant muſt name the like: (which being agreed vppon) The Complaynant muſt giue to the Defendant foureteene dayes warning, of the day and place, when, and where the ſayd commiſſion ſhall bee executed.

This warning muſt be giuen, either by himſelfe in perſon, Or elſe left in writing, at the houſe or place; where the Defendant doeth moſt reſide.

The complaynant in all caſes of commiſſion to examine Witneſſes, ſhall haue the firſt choyce of commiſſioners, and carriage of the commiſſion and for his releiſe.

He ſhall examine Witneſſes, in all theſe caſes following: (viz)

FIrſt vppon a Bill by him preferred to examine Witneſſes in perpetuall memorie of the matter, to commaund the defendant either by himſelfe, or by his Attourney to appeare immediately: And within Fourteene dayes to ſhew cauſe why the Complaynant ſhould not examine Witneſſes (in perpetuall memory.)

And if the defendant do thereuppon appeare by himſelfe, or his Attourney, and ſhew good cauſe

cauſe to the contrary, ſuch as the court ſhall allow, then the complaynant ſhall not examine any Witneſſes *in perpetuam rei memoriam*, or perpetuall memory.

But if hee do ſhew no ſufficient cauſe, nor ioyne in commiſſion with the complaynant, then the complaynants Attourney muſt preferre ſixe commiſſioners names to the Lord Keeper, or the court, &c. Foure of the which, or Foure ſuch other, as the Lord Keeper or the court ſhall appoynt, ſhall be ſet downe for commiſſioners, and a commiſſion for the complaynant ſhal be made forth, and directed to the ſayd Foure commiſſioners, or any three, or two of them, to examine Witneſſes, according to certaine Articles heeretofore ſet downe in *Chancerie*, which witneſſes are neuer to be publiſhed, during their liues, vnleſſe Oath be made.

That the complaynent hath ſome triall wherein he ſhould giue them in Euidence.

That the Witneſſes are not able to trauell to the place where the tryall ſhould be.

Or the party Defendant will conſent therevnto.

Neither can they be giuen in Euidence againſt any other, but againſt the party which was called, to ſhew cauſe why the ſaid Witneſſes ſhould not be examined, or ſome other, clayming vnder him by ſome intereſt which accrewed vnto them, after the Bill preferred by the complainant

nant for the examination of Witneſſes.

It is alſo vſed, that either party, after the Bill is exhibited, and Anſwere made thereunto, may examine Witneſſes in court here before one of the Examiners.

But the complaynant can haue no commiſſion to examine his Witneſſes, vnleſſe, and before the Defendant bee ſerued with a *Sub pœna ad Reiungendum*: Which *Sub Pœna* muſt bee ſerued in ſuch manner as is before mentioned.

And then vppon *Afidauit* made of the ſerving thereof, the complaynant (if the Defendant appeare not that Terme) ſhall haue a commiſſion directed to foure ſuch commiſſioners as himſelfe ſhall name, or to any three or two of them, for the examination of witneſſes on his part, againſt the defendant, without any warning to be giuen to the defendant.

Vppon the returne of the ſayd *Sub pœna ad reiungendum*, the complaynant may giue to the defendant a new *Reioyne*, (*viz.*) the ſame day ſeuennight.

By which time, if the defendant do not reioyne he ſhall loſe the benefit thereof.

And when that day ſo giuen to reioyne, is paſt, the complaynant may giue two ordinarie dayes, (*viz.*) two Returnes, for the defendant to produce his witneſſes, and then a Peremptorie day.

Before which day paſt, if the defendant doe come

come in, hee may haue a Commiſſion to examine witneſſes of courſe, without any motion; but hee ſhall loſe the benefit of *Reioynder*: And the Complaynant, if hee pleaſe to ioyne in the Commiſſion, ſhall haue the carriage of it, giuing to the Defendant foureteene dayes warning, of the day and place, when and where the ſayd Commiſſion ſhall be executed.

In the ioyning of this Commiſſion, The Complainant muſt firſt name one Commiſſioner, vnto whom the Defendant may giue generall exception:

The Defendant muſt name the ſecond;
The Complaynant the third,
And the Defendant the fourth.

The Common exceptions which bee giuen to Commiſsioners, are theſe, (viz.)

THat the Commiſſioner named, is of Kindred or Allyed to the party, for whom he is named:

That hee is a Maſter to the party:
That he is a Land-lord vnto him:
Or a Partner vnto him:
Or haue ſuite in Law with the aduerſe party to him, by and for whom hee is named:

Or is of Counsayle, an Attourney, or a Follower of the cause of the one party:

Or one to whom the party is indebted:

Or any other apparant cause of partiality, or siding with eyther party.

And it is commonly vsed, that eyther party may giue exception to one, and they seldome giue exception to any more then one, on eyther party.

If the Complainant make default, and procure not the Commission to bee executed: Then the Defendants Attourney may renue the sayd Commission to the former Commissioners; and the Defendant shal haue the carriage thereof (Giuing to the complainant foureteene dayes warning, of the day and place, when, and where it shall bee executed.)

And yet neuertheleſſe, the complaynants Attourney may, if the complainant will, renue the sayd com mission also, and giue the like warning also vnto the Defendant.

Vpon the execution of eyther of which Commissions, and returne whereof; eyther of them may giue to the other a day, to shewe cause why Publication should not be granted.

The day so giuen, is one weeke; which being expired, and no cause shewed to the contrary; Then publication is granted; and neyther partie can examine any Witnesses afterwards, vnleſſe it be by especiall order of the Court; which

is

is neuer granted, without an Oath made, that the party which requireth the ſame, nor any of them, hath ſeene, or bin made priuy to any examination of any the VVitneſſes formerly examined in this Court by eyther of the parties: And ſome good cauſe be ſhowne, eyther by Oath, or certificate of commiſſioners, why the party could not get his ſayd VVitneſſes examined within the time limited for their examination.

In which caſe, ſometimes, the Court giueth order to examine VVitneſſes by a time prefixed, at the parties perill, with this *Proviſo*, That the party ſhall not in the meane time ſee the ſayd former examination.

And ſometimes the Court giueth order, that the ſayd party ſhall examine his VVitneſſes, to informe the conſcience of the Iudge onely, and not otherwiſe.

Theſe Depoſitions are neuer publiſht, but by eſpeciall order or conſent of the parties; but deliuered to the Iudge, ſealed vp by the Officer, vnder whoſe cuſtody they do remayne, to the end he may peruſe them.

If any one be called by a *Subpœna*, to appeare in this Court: And vppon his appearance, the complainant or any other doth arreſt him in any other Court; He ſhall haue a *Super-ſedeas* to diſcharge the Action, becauſe he muſt haue free going and free comming.

But it is not ſo, if the complaynant bee arreſted,

except it be after issue is ioyned, and a day is giuen for the matter to bee heard. And the Complaynant comming to the Court, with euidence to maintayne his cause, is arrested: The Court in this case shall defend him, and set him free to follow his suite.

But this is seldome seene: And hee that is Plaintiffe in the other Court, may declare against him heere *Præsentem in curia*, if hee please. See 37. *Eliz.*

If any one who hath Priuiledge in *Chancerie*, be arrested into another Court, in a ioynt-action with his VVife, for matter concerning her: Notwithstanding the Couerture, shee shall not haue any benefit of priuiledge here. See *Powles* case.

If one who is priuiledged in another Court, as in the *Kings Bench*, *Common pleas*, or *Exchequer*, do arrest one of this Court, who is heere priuiledged as a Clerke, or otherwise: The Priuiledge heere (howsoeuer it is in other cases sufficient to supersede the proceeding else-where) yet in this case I haue neuer seene it to preuayle against the other priuiledge.

For amongst like priuiledged men, most speede carries it away.

The

The Order made and ordained by Sir NICHOLAS BACON, *Knight, Lord Keeper of the Great Seale, touching the Examination of witneſſes* in perpetuam rei memoriam : *Dated the tenth of December, in the third yeare of the late Qu.* Eliz. *followeth.*

FIrſt the Commiſſioners ſhall examine no Witneſſes, but ſuch as bee aged and impotent.

Item, the complaynant, or party, who ſueth forth the commiſſion, ſhall giue warning by precept from the commiſſioners, vnto the partie that ſhould take preiudice by this examination, by the ſpace of fourteene dayes at the leaſt, of the time, and place; when, and where the ſaid commiſſioners will ſit vpon this commiſſion.

And the ſame warning beeing ſo giuen: The commiſſioners are to bee ſatisfied by the Oath of the party complaynant, or of ſome other credible perſon, that warning is giuen accordingly, be-

fore they ſhall proceed to the execution of their Commiſſion.

Item, If the party Aduerſant, or defendant, can ſhew before the Commiſſioners good cauſe of exception, either againſt the Witneſſes produced by the complaynant, or any of them, Or againſt the commiſſioners themſelues; Or otherwiſe, then they ſhall ceaſe and forbeare any farther execution of the commiſſion.

And the commiſſioners ſhall certifie aud returne the ſayd cauſes, and execptions, vp with the commiſſion.

Item, If the party aduerſant cannot ſhew ſufficient cauſe (as aforeſaid) then the commiſſioners ſhall proceed to the examination of Witneſſes; and the party Aduerſant, or Defendants ſhal haue liberty to ioyne in the examination of the ſame Witneſſes, or of any other likewiſe vpon Interrogatories on his behalfe (if he thinke good.)

Item, The commiſſioners ſhall certifie in their returne of the commiſſion, ſuch acceptations as the defendant ſhall take againſt the proceeding in the ſame commiſſion, and whether the defendant did appeare or no?

And if the Defendant did not appeare, they are likewiſe to certifie and returne, whether *Affidauit* were made of the giuing of warning by precept (as aforeſand) or no?

Orders

Orders to bee obſerued before the granting of Publication of the ſayd Commiſsion.

THe party who prayeth publication, ſhall firſt by himſelfe, or ſome other, make Oath that the depoſitions of the ſame witneſſes, are neceſſarily to be giuen in euidence on his behalfe.

Item, Oath alſo muſt bee made, that the ſame Witneſſes be either dead, or ſo aged, or impotent as they cannot trauell to teſtifie (*viua voce*) without danger of life.

Item, This Oath being ſo taken, a Maſter of the *Chancerie* muſt firſt open the Commiſſion, and conſider whether this Order before mentioned hath bin obſerued in all poynts, wherein he being ſatisfied, publication is thereupon to bee granted.

Prouided alwayes, that no Depoſitions ſhal be giuen in euidence, but againſt thoſe perſons that were warned by precept (as aforeſayd) or againſt their Heires or Aſſignes.

And prouided alſo, That after examination had, and taken (as aforeſayd) And after Publication had, and granted of the ſame examinations: The party Aduerſant, or Defendant, ſhall not

not bee admitted to haue any new examination on his behalfe, concerning the ſame matter.

Item, This Order is to bee obſerued in caſe where the commiſſion is *ex parte querentis* onely, and it is to bee engroſſed in Parchment, and ſubſcribed with the hand of the Regiſter, and to bee annexed to euery of the ſayd commiſſions, but not otherwiſe.

For if the Defendant ioyne, then theſe Articles ſhall not need.

The difference vſed betweene a Ioynt-Commiſsion in the aforeſayd nature; And a Commiſsion ex parte, *followeth.*

THE Ioynt-Commiſſion is made in forme, as all other generall commiſſions to examine Witneſſes, *Super Interrogator. miniſtrand.* bee, Adding to the end of the ſame, theſe words (*viz.*) *in perpetuam rei memoriam permanſur.*

The commiſſion *ex parte*, is to haue theſe rules inſerted vnder the Regiſters hand, and the commiſſioners uames are ſpecially to bee aſſigned by the Lord Keeper, or Lord Chancellour for the time being.

Termino

Termino Michaelis, Anno Regni
Eliz. *Reg. Sext.*

MEmorandum, That all Iniunctions granted for preſeruation of poſſeſſion, during the ſuite in the Court of *Chancery*, ſhall haue this clauſe & condition contayned in them (*viz.*) That the party who prayeth poſſeſſion, was in poſſeſſion at the time of the Bill exhibited, and certaine yeares before; And that his intreſt is not determined by forfeture, ſurrender, or other lawfull meanes.

And Bond muſt bee put in by the party who prayeth the poſſeſſion, of the penalty of tenne pound, with condition that this Information aforeſayd is true.

Item, that all Iniunctions granted for the ſtay of Suites at the common Law, ſhall haue this clauſe and conditon contained in them: (*viz.*) That the ſame Suite deſired to bee ſtayd, is for and concerning the ſame matter depending in this Court, and as we begunne at the common Law, after the Bill exhibited into this Court; and that Bond be put in (as aforeſayd.)

Item, That no *ſpeciall Certiorare* doe paſſe without Bond firſt giuen, on the behalfe of the party who deſireth the ſame; with condition, That the Bill exhibited containeth matter ſuffi-

cient to beare a *Certiorare*, And that hee ſhall proue the contents of his Bill to be true, within fifeteene dayes after the returne of the Writ, according to the Order and courſe of this Court.

And that vppon the granting of euery *Procedendo*, the Bond aforeſayd be remembred to the Lord Keeper.

Termino Trinitatis, Anno Regni Eliz. Reg. Septimo.

IT is ordered, that all Suites for no more then ſixe acres of Land, or leſſe, except the ſame bee worth forty ſhillings by the yeare.

And all Suites for matter vnder the value of tenne pounds, ſhall be diſmiſſed this Court, for ſuch cauſe onely proued. And this Court ſhall not retaine any ſuch: But the party who bringeth the ſame hither, ſhall pay coſts to the defendant, as this court ſhall award.

Termino Michaelis, Anno Regno Eliz. Reg. Septimo.

IT is Ordered, that all *Proceſſe* to heare Iudgment, bee returnable ſixe or ſeauen dayes before the day of Hearing, and not aboue, ſauing in the beginning of the Terme, when the

the time will not permit ſo long warning.

And the ſaid Writs muſt bee endorſed on the backſide, with the very day appoynted for the hearing of Iudgment. And ſoe much for that Terme.

By the generall cuſtome, and ancient vſage of this Court, all Bills ſhall be retayneable here, in caſe where the Equity of the cauſe requireth and beareth it, And wherein the Common Law doth affoord no releiſe, bnt rather preſſure and rigiour.

After Publication once had, the Complainant may procure a day of Hearing of courſe, by ſuch an one of the ſixe Clerks as dealeth for him. And he may at the end of the Terme, when the Lord Keeper ſetteth downe the dayes of Hearings, procure his hearing to bee ſet downe amongſt thoſe aſſigned for the next ſucceding Terme.

This was wont to bee the ancient courſe of procuring of Hearings, howſoeuer it was lately diſ-vſed, And (as I take it) the ſame is now reſtored againe, to the good contentment of all Suitors in this Court.

The Order of Proceeding against such as refuse to obay his Majesties Iniunctions, proceeding and issuing out of the Court of Chancerie.

FOr the breach of an Iniunction, there bee commonly three punishments, (viz.)

One, that the *Contemptor* shall not bee in all the principall cause, till hee haue fulfilled the *Iniunction* in euery poynt.

Another, that hee shall not bee committed to Ward in the meane time, And there continue, till he doe conforme himselfe, and become obedient to the Iniunction.

The third, that hee shall fine to the King for his *Contempt*, as the Lord *Keeper*, or Lord *Chancellour* for the time being, shall please to award. And the Lord *Keeper*, or Lord *Chancellour* may depense heerein, as they shall finde cause and reason.

Item, If the *Contemptor* do not appeare vppon sight of the *Iniunction*, or not obey the same; but doth commit some Act in contempt or neglect thereof, Then vpon an *Affidauit* made of the seruing of the sayd *Iniunction*, There shall bee awarded

awarded an Attachment against the layd *Contemptor*, &c. as in the case of *Proces* before mentioned and declared.

Item, If the *Contemptor* doe appeare, and hath not fulfilled and performed the *Iniunction*; and yet, at his comming doth offer to fulfill it, alleaging that hee cannot do it here conueniently: Then the Lord *Keeper*, or Lord *Chancellor* vseth to appoint him a certaine day, within which hee must doe it: And so, vppon Bond taken of him, with Sureties, who are to vndertake, (in case his owne security be not held sufficient) that hee shall performe the *Iniunction* within the time giuen, or at the day to render his body to prison, there to remayne, till he hath fulfilled the same, Hee may be licensed to depart.

What I haue hitherto set downe, is desumed and collected out of the ancient Forme of practice and Orders of this Court of *Chancery*: I shall now deliuer, the orders and practice of latter times, most of which are agreeable with the former: some are *de nouo* ordayned; and all are subiect to addition or alteration, as the Court shall thinke fitting, and done *Salua Prerogatiua Curiæ.*

The Moderne Orders and Ordinances of Chancery follow.

Affedauits.

NO *Affedauit* ſhall be admitted or taken, which ſhall tend to the proofe or diſproofe of the Title or matter in queſtion, or touching the merits of the cauſe:

Neyther ſhall any ſuch matter bee colourably inſerted, in any *Affedauit* to bee made touching the *Seruing* of *Proces*.

No *Affedauit* ſhall bee taken againſt *Affedauit*, ſo farre as the Maſter of *Chancerie* can diſcerne, or take knowledge, &c.

If any ſuch bee taken, The latter ſhall not bee vſed or read in Court.

Contempts.

IN caſe of Contempts, granted vppon force, or ill words, vſed vpon ſeruing of *Proces*, Or other words of *Scandall*, proued by *Affedauit*, the party is forthwith to ſtand committed:

But for other Contempts, againſt the Orders or Decrees of the Court:

Firſt,

First, an Attachment goes foorth vpon *Affedauit* made.

Then the party is to be examined vppon Interrogatories, and

His examination is to bee referred:

And if vpon examination, hee confesse matter of Contempt, he is to bee committed:

If hee confesse it not, The Aduerse party may examine VVitnesses, to proue the Contempt;

And if the Contempt appeare vppon proofe, the contemptor is to bee committed therefore.

But if the Aduerse party fayle to prooue the sayd Contempt, Or fayle to put in his Interrogatories or other prosecution, Then the partie charged with the Contempt, is to bee discharged with good costs.

They that are in Contempt, especially so farre as *Proclamation of Rebellion*, are not to bee heard neyther in that suite, nor in any other, except the Court of speciall grace, suspend the Contempt.

Imprisonment vppon *Contempts* for matters past, may be discharged of grace, after sufficient punishment: Or it may be otherwise dispensed withall in such case:

But if the Imprisonment bee for performance of any order of the Court in force: Then the *Contemplator* ought not to be discharged, except hee first obey: Only, the Contempt may bee suspended for a time.

Petitions.

NO *Iniunctions*, *Sequestration*, *Dismissions*, *Retainer* vppon *Dismissions*, or *Finall Orders*, shall bee granted vpon *Petitions*.

No former Order made in Court, is to bee altered, crossed or explayned, vppon any *Petition*; But such Orders may be onely stayd vppon *Petition*, for a small time, till the matter may be moued in Court.

No *Commissions* for examination of Witnesses shall be discharged; Nor any examinations, or depositions of Witnesses, shall be suppressed vpon *Petitson*, vnlesse it be first referred, and Certificate bee made thereupon.

No *Demurrer* shall bee ouer-ruled vpon any *Petition*.

Iniunctions.

INiunctions for possession or for stay of Suites after verdict, are to bee presented to the Lord *Keeper*, or Lord *Chancellor*, beeing together with the Orders whereupon they goe forth; That his Lordship may take consideration of the Orders, before hee signe them.

No *Iniunction* of any nature, shall be granted, reui-

reuiued, dissolued, or stayd vpon priuate Petition.

No *Iniunction* to stay suites at the Common Law, shall bee granted vpon *Priorities* of Suite onely.

Or vpon the *Surmises* of the Complainants Bill onely.

But vppon matter confessed in the Answere of the Defendant.

Or matter of Record.

Or writing plainely appearing.

Or when the Defendant is in Contempt for not answering.

Or when the dept desired to bee stayd, appeareth to be old, and hath slept long.

The creditor and the debtor haue bin dead some good time, before the suite brought.

Where the Defendant appeares not, but sits an Attachment: Or when he doth appeare and departs without Answere, and is vnder attachment for not answering: Or where hee takes Oath, that he cannot answere without sight of Euidences in the Countrey: Or where after answere, hee sues at Common Law by Attourney: Or absents himselfe beyond Sea.

In all these cases, an *Iniunction* may be granted, for stay of suites at the Common Law, vntil the partie answere, or appeare in person in Court, and the Court giue further order.

But neuertheless, vppon answere put in, if there bee no motion made the same Tearme, or

at the next generall seale after the Terme, to continue the *Iniunction*, in regard, and vpon suggestion of the insufficiency of the Answere put in: Or in regard of the matter confessed in the Answere, then the *Iniunction* shall dye, and dissolue, without any speciall order.

In the case aforesaid, where an *Iniunction* is to bee granted, for stay of Suites at the Common Law; If the like suites be in the *Chancery*, either by *Scire facias*, or by *Priuiledge*, or *English* Bill, Then the suite is to bee stayd by order of the Court, as it is in other Courts by *Iniunction*.

Where an *Iniunction* hath bin obtained for staying of Suites at the Common Law, and no prosecution is had by the space of three Termes afterwards: The *Iniunction* is to fall of it selfe, without farther motion.

Where a Bill comes in after an Arrest at the Common Law for a Debt, No *Iniunction* shall bee granted, without bringing the principall money into the Court, except there appeare in the Defendants answere, or by sight of Writings, plaine matter, tending to discharge the Debt in Equitie. But if an *Iniunction* be awarded, and disobeyed in that case. Then no money shall bee brought in, or deposited, in regard of the contempt.

Iniunctions for *Possession* are not to be granted before a *Decree*, but where the Possession hath continued by the space of three yeares past before

fore the Bill exhibited, and vpon the same Title, and not vpon any title by leaue, or determined.

In case where the Defendant sits all the proces of contempt, & cannot be found by the Sergeant at Armes, or resists the Sergeant, or makes rescues, a Sequestration shall be granted of the Land in question, and if the Defendant do not render himselfe within the yeare, then an *Iniunction* shall be granted for the Possession.

Iniunctions against felling of Timber, Or plowing vp of ancient Pastures, or for the maintaining of Inclosures, or the like, shall bee granted according to the circumstances of the case, but not in case, where the Defendaut vpon his answere, claymeth a state of Inheritance, except it be where he claimeth the Land in trust, or vpon some other speciall ground.

Iniunctions shall bee inroled, or the *Transcripts* thereof be syled.

Order.

WHere any Order shall bee made against the generall Rules of the Court: There the *Register* shall plainely and expressely set down the particular reasons and grounds, mouing the Court to vary from the generall rule.

No Order of the publike court is alterable vpon *Petition*: *vide* in the Title *Petition*.

Regiſter: *Order*.

The *Regiſters* are to bee ſworne.

If any Order ſhall be made, and the court not informed of the laſt martiall Order formerly made; No benefit ſhall bee taken by ſuch Order, as being granted by abuſe, and ſurreption: And to that end the *Regiſter* ought duly to mention the laſt former Order in the preſent Order.

No Order ſhall be explayned vpon any *Petition*, but onely in Court as they are made, and the *Regiſter* is to ſet downe the Orders, as they are pronounced by the court, truely, at his perill, without troubling the Lord *Keeper*, or Lord *Chancellour*, by any priuate attending of him, to explaine his meaning, And if any explanation be deſired, It is to be done by publique motion, where the other party may be heard.

No draught of any order ſhall be deliuered by the *Regiſter* to either party, without keeping of a copy by him: to the end that if the Order be not entred; Neuertheleſſe, the Court may be enformed what was formerly done, and not be put to a new trouble, and to the end alſo, that knowledge of Orders be not kept back too long from either party, but may preſently appeare at the Office.

Where

Where a cause hath beene debated vpon hearing of both parties; And opinion hath been deliuered by the Court; and neuertheleſſe, the cauſe referred to Treaty: The *Regiſters* are not to omit the opinion of the Court in drawing of the Order of Reference, except the Court doe ſpecially declare, That it is to be entred without any opinion eyther way.

In which caſe, neuertheleſſe, the *Regiſters* are out of their ſhort Notes, to draw vp ſome more full remembrance of that which paſſed in Court, to informe the Court if the cauſe come backe, and cannot be agreed.

The *Regiſters* vppon deliuerie of the draught of any Order, vnto the counſell of eyther party, are not to reſpect the interlineations, or alterations of the ſayd counſell (be the ſayd counſell neuer ſo great) further then as to put them in remembrance of that which was truely deliuered in Court; and ſo to conceiue the Order vppon their Oath and duty, without any other or farther reſpect.

The *Regiſters* are to be carefull in the penning and drawing vp of *Decrees*; And eſpecially in matters of difficulty and weight: And therefore when they preſent the ſame to the Lord *Keeper* or Lord *Chancellour*, They ought to giue him vnderſtanding which are ſuch *Decrees* of weight, that they may bee read and reuiewed, before his Lordſhip ſigne them.

Decrees.

THe *Decrees* granted at the *Roles*, are to be presented before the Lord *Keeper*, or Lord *Chancellour* for the time being, with the Order whereupon they are drawne, within two or three dayes after euery Terme.

NO *Drecree* shall be reuersed, altered, or explained, being once vnder the Great seale but vpon Bill of *Reuiewe*, and no bill of *Reuiewe* shall be admitted, except it be vpon error in Law, appearing in the body of the *Decree*, without farther examination of matters in Fact, or he shall shew some new matter which hath risen in time after the *Decree*, and not any new proofe which might haue bin vsed when the *Decree* was made.

Neuertheless, vpon new proofe which is come to light since, and after the *Decree* made, & could not possibly haue bin vsed at the time when the *Decree* passed, a Bill of *Reuiew* may be granted by the speciall Licence of the Court, and not otherwise.

In case of mis-casting, being a matter Demonstratiue, a *Decree* may be explained, and reconciled by an order without Bill of *Reuiewe*.

Where

Where note, that by the word *Miſ-caſting*, is not intended any pretended *Mis-caſting*, or miſvaluing, but onely errour in the Auditing, or numbring.

No Bill of *Reuiewe* ſhall be admitted, or any other new Bill to change matter decreed, except the *Decree* bee firſt obtained, and performed: And if it bee for Land, that the poſſeſſion be yeelded: If it be for money, that the money be paid, If it be for euidence, that the euidence be brought in; and ſo in other caſes which ſtand vpon the ſtrength of the *Decree* alone.

But if any act bee deſired to be done, which extinguiſheth the parties right at the Common Law (as making of Aſſurance or Releaſe: Acknowledging of ſatisfaction, Cancelling of Records or Euidence, and the like) Thoſe parts of the *Decree* are to bee ſpared, vntill the Bill of *Reuiewe* bee determined: But ſuch ſparing is to be warranted by publique Order made in Court.

No *Decree* ſhall be made vpon pretence of equitie, againſt the expreſſe prouiſion of an Act of Parliament.

Neuertheleſſe, if the conſtruction of ſuch act of Parliament, hath for a time gon one way in generall opinion and reputation; and after by a latter iudgment hath beene controled: Then Releiſe may be giuen vpon matter of equity, for caſes ariſing before the ſayd Iudgment: becauſe the ſubiect was in no default.

Impri-

Impriſonment for breach of a *Decree* is in nature of an *Execution*, and therefore the cuſtodie ought to bee ſtraight, and the party not to haue any liberty to go abroad, but by ſpeciall licenſe of the Lord *Keeper*, or Lord *Chancellour* being: But no cloſe impriſonment is to bee but by expreſſe order for willfull and extraordinary Contempts and diſobedience (as hath beene vſed.)

In caſe of obſtinate diſobedience, in the breach of a *Decree*, an *Iniunction* is to be granted *Sub pœna* of a ſumme: and vppon *Affedauit*, or other ſufficient proofe of perſiſting in contempt, Fines are to bee pronounced by the Lord *Keeper*, or Lord *Chancellour* in open court, and the ſame are to bee eſtrated downe into the Hannaper by ſpeciall order.

In caſe of a *Decree* made for the poſſeſſion of Land, a Writ of *Execution* goeth forth, and if that bee diſobeyed; Then *Proceſſe* of *Contempt*, according to the courſe of the Court, is to goe forth againſt the perſon, vnto the commiſſion of Rebellion; and then a Sergeant at Armes by ſpeciall Warrant: and in caſe the Sergeant at Armes cannot finde him, Or he bee reſiſted, Or if he vppon his commitment do perſiſt in his diſobedience, an *Iniunction* is to be granted for the poſſeſſion, and in caſe that it alſo bee diſobeyed, Then a commiſſion is tobee made to the Sheriffe, to put his aduerſary into poſſeſſion.

Where the party is committed for breach of a *Decree*,

Decree, Hee is not to be enlarged, vntill the *Decree* bee fully performed in all things which are to bee done presently.

But if there be other parts of the *Decree* to bee performed at dayes or times to come: Then hee may bee enlarged by order of the Court, entring into Recognizance with Sureties for the performance *de futuro*, but not otherwise.

Where causes come to hearing in Court; No *Decree* bindeth any person, who was not serued with Proces *ad audiendum Iudicium* according to the course of the court; Or did appeare *gratis* in the Court.

No *Decree* bindeth any one that commeth in *bona fide*, by Conveyance from the Defendant before the Bill exhibited; And is made no party eyther by Bill or by Order.

But where hee comes in *Pendente lite*, and while the Suite is in full prosecution, and without any colour of allowance, or priuity of the Court; There regularly the *decree* bindeth:

But if there were any intermission of suite; Or the court were made acquaynted with the conueyance, The Court is to giue order vppon the speciall matter, according to Iustice.

VVhere a *Decree* is made for a Rent to bee payd out of Land; Or a summe of money to bee leuied vppon the profits of Land; There a *Sequestration* of the same Land beeing in the

Defendants hands, may bee granted vppon the *Decree*.

Where the *Decree* of the *Prouinciall* counsailes; Or the Court of *Requests*, or the like, are by contumacy or other meanes interrupted: There the Court of *Chancery*, vppon a bill preferred for corroboration of the *Decrees* of that Iurisdiction, shall giue remedy.

Where any cause comes to Hearing heere, which hath beene formerly *Decreed* in any other of the Kings Courts of Iustice at *Westminster*; Such *Decree* shall be first read; and then this court shall proceede to heare the rest of the euidences on both sides.

Decrees vppon Suites brought after Iudgement, shall containe no words to make voyde, or weaken the Iudgement: But shall onely correct the corrupt conscience of the Party, And rule him to make Restitution, of to performe other acts, according to the equity of the cause.

Bill of Reuiewe.

Decrees are not to bee reuersed, altered, or explayned, beeing once vnder the Great Seale, but vppon Bill of *Reuiewe*.

Bill of *Reuiewe* shall not bee admitted, except the *Decree* bee first obeyed and performed.

No *Bill* of *Reuiewe* shall bee put in, except the party

party that preferres it, enter into *Renognizance*, with Sureties for the ſatisfying of Coſts and Damages for the delay, if it bee found againſt him.

Reference, Report.

NO *Reference* vppon a *Demurrer*, or queſtion touching the Iuriſdiction of this Court, ſhall bee made to the Maiſters of the *Chancery*, But ſuch *Demurrer* ſhall be heard and ruled in the Court, or by the Lord *Keeper* or Lord *Chancellor* himſelfe.

For the confirming or ratifying of any *Report*, No Order ſhall bee made, without day to bee giuen, by the ſpace of a Seuen-night (at leaſt) to ſpeake vnto it in Court.

No *Reference* ſhall bee made to any Maiſter of the Court, or any other Commiſſioner or Commiſſioners, to heare and determine, where the cauſe is gone ſo farre as to examination of Witneſſes: Except it bee in eſpeciall caſes of Parties neere in blood, or of extreame pouerty, Or by conſent:

And generally, *References* of the ſtate of the cauſe, are to bee ſparingly granted; except it bee by conſent of the parties.

No *Report* ſhall bee reſpected in Court, which exceedeth the Warrant of the Order of *reference* which leadeth it.

The Maiſters of the Court are required, that by *Report* they doe not certifie the eſtate of the cauſe; as if they would make *Breuiates* of the Euidence on both ſides, which doth little eaſe the Court; But that they doe it with ſome opinion; Or otherwiſe, in caſe they thinke it too doubtfull, to giue opinion therein; And thereuppon they are to make ſuch ſpeciall *Certificate*; and the cauſe is to goe on to a Iudiciall hearing, without reſpect had to the ſame.

If both parties conſent to a *Reference* for the examination of Accompts, to make the Cauſe more ready for hearing, it may bee granted. But generally, matters of Accompt excepting in very weighty Cauſes, are not fit for the Court, but are to bee prepared by *Reference*, with this prouiſion neuertheleſſe; That the Cauſes come firſt to a Hearing, and vppon the entrance into a Hearing, they may receiue ſome direction, and bee turned ouer to bee conſidered and prepared.

The like courſe of *Reference* is to bee taken for the examination of Court Rolles, vppon any Cuſtomes; and the Copies ſhall not bee referred to any one Maſter, but to two Maſters at the leaſt.

No *Reference* ſhall be made of the *Inſufficiency* of any Anſwere, without ſhewing of ſome particular points of the defects thereof, And not vppon ſurmize of the *Inſufficiency* generally.

Where

Where a Truſt is confeſſed by the Defendants anſwere, there needeth no farther hearing of the cauſe, but a *Reference* preſently to be made of the Accompts, and ſo they are to go on to the hearing of the accompts.

Diſmiſsion.

WHere cauſes are diſmiſt vpon full Hearing, and the Diſmiſſion ſigned by the Lord *Keeper* or Lord *Chancelour*, ſuch cauſes ſhall not be retained againe, neither ſhall any new Bill be admitted, except it be vppon new matter, like vnto the caſe of the Bill of *Reuiewe*.

In caſe of all other Diſmiſſions, which are not vppon Hearing of the Cauſe, If any new Bill bee brought, the Diſmiſſion is to be pleaded; and after *Reference* and *Report* of the *Conents* of both Suites, and conſideration taken of the cauſe or cauſes of the former Diſmiſſion; The Court ſhall rule and order the Retyning or Diſmiſſion of the new Bill, according to Iuſtice and the nature of the caſe.

All ſuites grounded vpon VVills *Nuncupatiue*, Leaſes *paroll*, Or vppon Long Leaſes, that tend to the defeating of the Kings *Tenures*, Or for the eſtabliſhing of the *Perpetuities*, Or granted vppon *Remainder* ouer vnto the Crowne, to defeate purchaſers; Or for *Brocage*, or Rewards to

make mariages, Or for bargaine at play; or VVagers for bargaines for Offices, contrary to the Statute of the Second of *Edward* the sixt; Or vppon contracts for Vsurie or *Symony*, are Regularly to be dismissed vpon motion, if they bee the whole matter of the Bill; and there be no speciall circumstances to moue the Court to allow them a proceeding.

And all Suites vnder the value of ten pouuds, are regularly to be dismissed.

Dismissions are properly to be payed and had, either vppon hearing, or vpon Plea vnto the Bill, when the cause comes first into the Court.

But *Dismissions* are not to bee prayed after the parties haue bin at charge of examination of witnesses, except it be vpon speciall cause.

If the Complainant discontinue prosecution, after all the Defendants haue answered, aboue the space of one whole Terme, the cause is to be dismissed of course, without motion.

But after *Replication* is put in, the cause is to bee dismissed without motion and order of the Court.

For double vexation, the cause may bee dismissed.

Where causes are remoued by speciall *Certiorare*, vppon a Bill containing matter of equitie, The Complaynant is vppon receipt of his writ, to put in Bond to proue his suggestions within fourteene daies after the receipt, which if he do

not

not proue, then vpon certificate from either of the Examiners, presented to the Lord *Keeper* or Lord *Chancellor*, the cause shal be dismist with costs, and a *Procedendo* shall be granted.

Demurrer.

Demurrers and *Pleas* which tend to the discharging of any Suite, shall bee heard first vpon euery day of Orders, that the Subiect may know, whether he shall need to giue further attendance or no.

A *Demurrer* is properly vpon matter *defective* contained in the Bill it selfe: or forraigne matter.

But a *Plea* is of forraigne matter, to discharge or stay the Suite, (as)

That the cause hath bin formerly dismist.

That the Complainant is vtlawed.

That the Complainant is excommunicate.

That there is another Bill depending for the same cause,

Or the like.

And such *Plea* may bee put in without Oath, in case where the matter of *Plea* appeares vppon *Record*, but if it bee any thing which doth not appeare vpon *Record*, then the *Plea* must be put in vpon Oath.

No Vtlary shall be allowed, without pleading the *Record* (*sub pede Sigilli*: Nor Plea of Excom-

mupi-

mmication without the Seale of the Ordinary.

Where any ſuite appeareth vppon the Bill to bee of the nature of any of thoſe which are Regularly to be diſmiſſed, according to the Order before mentioned, the ſaid Order is to be ſet forth by way of *Demurrer*.

Anſwere.

WHere an Anſwere ſhall be certified to be inſufficient, The Defendant is to pay coſts.

And if a ſecond Anſwere be returned inſufficient in the poynts before certified for inſufficient, then he ſhall pay double coſts.

And vpon the third like caſe, treble coſts.

And vpon the fourth, quadruple coſts, and then to be committed alſo till he ſhall haue made a perfect and ſufficient anſwere, and he ſhall be examined vpon *Interrogatories*, touching the poynts *defective* in his anſwere.

But if any anſwere be certified to bee ſufficient, then the Complainant is to pay coſts.

No *inſufficiencie* of anſwere can bee taken hold of, after *Replication* put in, becauſe it is admitted for *ſufficient* by the *Replication*.

An anſwere to a matter charged as the Defendants owne fact, muſt bee direct, without ſaying that *It is to his remembrance*, or *as hee beleeueth*,

If

If it bee layd downe to bee done within ſeauen yeares before.

And if the Defendant do deny the Fact: Then he muſt trauerſe it directly, and not by way of *Negatiue pregnant.*

As if a fact be layd to be done with diuers circumſtances; The Defendant may not Trauerſe it *literally*, as it is layd in the Bill: But he muſt Trauerſe the poynt of ſubſtance.

So as if bee bee charged with the receipt of an hundred pounds; He muſt Trauerſe that he hath not receiued an hundred pounds, or any part thereof. And if he haue receiued any part of it, he muſt ſet downe what part hee hath receiued.

If a Hearing bee payed vpon Bill and anſwere: The anſwere muſt bee admitted to bee true in all points.

And a *Decree* ought not to be made, but vppon hearing of the anſwere read in Court.

Where no Counſaile appeares for the Defendant at the Hearing; and the Proceſſe appeares to haue beene ſerued; the Anſwere of ſuch Defendant is to be read in Court.

No new matter is to bee contayned in any Replication, except it be to auoyde matter ſet forth in the Defendants Anſwere.

Other things Promiſcuouſly layd together.

ALL Coppies in *Chancery* ſhall contayne fifteene Lines in euery Sheete thereof, written orderly, and vnwaſtefully, vnto which ſhall bee ſubſcribed the name of the principall Clerke of the Office where it is written, or his Deputies name, for whom hee will anſwere. For which onely *Subſcription*, no Fee at all ſhall bee taken.

All Commiſſions for Examination of Witneſſes, ſhall bee *ſuper Interrogatorij incluſis*, or Interrogtaories incloſed onely: And no returne of Depoſitions into this court ſhall bee receiued; but ſuch onely, as ſhall be eyther compriſed in one Roll, ſubſcribed with the names of the Commiſſioners; or elſe in diuers Rolles, whereof each one ſhall bee ſo ſubſcribed.

If both parties agree in a commiſſion, And vppon warning giuen, the Defendant bringeth his commiſſioners, but produceth no Witneſſe, nor Miniſtreth Interrogatories, but afterwards ſeekes a new commiſſion, the ſame ſhall not bee granted.

But neuertheleſſe (vppon ſome extraordinarie excuſe made for the Defendants default, hee may haue

haue liberty granted vnto him by his especiall order to examine his Witnesses in court, vpon the former Interrogatories, giuing to the complainant or his Attourney notice that he may examine also if hee will.

The Defendant is not to bee examined vppon Interrogatories, except it bee in very speciall cases, by expresse order of the court, to sift out some fraud or practice, pregnantly appearing to the Court: Or otherwise vppon Offer of the complaynant, to be concluded by the answere of the Defendant, without any liberty farther to disprooue such answere, or to impeach him afterwards of Perjury.

Decrees made in other courts, may bee read vpon Hearing, without any Warrant by speciall order.

But no Depositions taken in any other Court, are to be read but by especiall order.

Regularly the Court granteth no Order for reading of forreigne Depositions; except it bee betweene the same parties, and vppon the same Title or cause of suite.

No examination is to be had of the credit of any Witnesse; but by speciall order, which is likewise sparingly to be granted.

Where it shall appeare the complaynant had not cause of suite, he shall pay to the Defendant his vtmost costs, to be assessed by the Court.

If any Bill, Answere, Replication, or Reioyn-

der ſhall bee found of an immoderate length, both the party who put it in, And his Counſell vnder whoſe hand it paſt, ſhall bee fined by the Court.

If there be contayned in any Bill, Anſwere, or other Pleading, or any Interrogatory; any matter lybellous, or ſlanderous againſt any perſon that is not party to the ſuite, or againſt ſuch as are parties to the ſuite vppon matter impertinent, or in Derogation of the ſetled Authority of any of his Maieſties Courts; Such Bills, Anſweres, Pleadings, or Interrogatories, ſhalbe taken off the Fyle, and ſuppreſt; And the parties ſhall bee ſeuerely puniſhed by commitment, or Ignominy, as ſhall be thought fit for his abuſe of the Court: And the Counſaylors at Law who ſhall ſet their hands to the ſame Bills, Anſweres, Pleadings, or Interrogatories, ſhall likewiſe receiue reproofe, or puniſhment, if cauſe bee.

No *Scire facias* ſhall bee awarded vpon *Recognizances* not inrolled, Nor vppon *Renognizances* inrolled, vnleſſe it bee vppon examination of the *Record* with the Writ,

No *Recognizances* ſhall bee enrolled after the yeare, except it bee vppon ſpeciall order of the Lord *Keeper* or Lord *Chancellour* beeing.

No Writ of *Ne exeat regna*, *Prohibition*, *Conſultation*, *Statute of Northampton*; *Certiorare* ſpeciall, or *Proceaendo* ſpeciall, or *Certiorare*, or *Procedendo* generall, more then once in the ſame cauſe;

caule; Not *Habeas Corpus*, or *Corpus cum cauſa*, *De viridi amouenda*, or *Reſtitution* therevpon, Or *de Coronatore & viridario elegendo*, *De homine replegiando*, *Aſſiſtas* ſpeciall, *De bellino amouendo*, *Certiorares ſuper præſentationibus factis coram Commiſſionar.* *Sewars*, or *ad quod damnum*, ſhall paſſe without warrant vnder the hand of the Lord *Keeper* or Lord *Chancellour*, beeing ſigned by the one of them, Excepting onely ſuch writs of *ad quod damnum*, as ſhall be ſigned by his Maieſties Attourney Generall.

Writs of Priuiledge would bee reduced to a good and fitting rule, for number of perſons priuiledged, and the caſe of Priuiledge.

The number would be ſet downe by *Schedule*.

For the caſe, It is to bee vnderſtood, That beſides the perſons priuiledged as *Attendants* vpon the Court; Suitors and Witneſſes are onely to haue priuiledge *eundo*, *redundo*, & *morando*, for their neceſſary attendance, and not otherwiſe. And that ſuch VVrits of priueledge doe onely diſcharge an Arreſt vppon the firſt Proceſſe.

And yet where the partie is taken in execution at time of neceſſary attendance here required It is to be taken as a contempt to this Court, and accordingly to be puniſhed.

No *Supplicauit* for the *Good behauiour* ſhall be granted, but vpon Articles grounded vpon Oath at leaſt, or vpon a Certificate of any one Iuſtice

of Assize, or two Iustices of the Peace, with Oath that it is their hands, Or it may bee granted by order of the *Starre-Chamber*, or *Chancerie*, or other of the Kings Courts.

No *Recognizance* of the *good behauiour* and the *Peace* taken in the country, and certified into the *Petty-Bagge*, shall bee tyled within the yeere, without speciall Warrant.

Writs of *Ne exeat regna*, are properly to bee granted, according to the suggestion of the Writ; In respect of Attempts, preiudicial to the King and State: In which cases, the Lord *Keeper*, or Lord *Chancellour* will grant them, vppon the prayer of any of the Principall Secretaries, without cause shewing; Or vppon such Information as his Lordship shall thinke to bee of weight.

But otherwise also they may bee granted according to the ancient practise vsed in case of *Interlopers* in Trade, Great *Bankrupts*, in whose estate many Subiects are intressed; or in other cases that concerne multitudes of the Kings subiects, And also in case of *Duels*, and some other cases.

All Writs, certificates, and whatsoeuer other *Processe* returnable *Coram Rege in Cancellaria*, shall be brought into the chappell of the Rolles, within conuenient time after the Returne thereof; And shall be there filed vpon their proper files and bundles as they ought to bee, and as the practice

tice hath bin heretofore, except onely the depoſitions of the Witneſſes, which may remaine with any of the ſixe clerkes, by the ſpace of one yeare next after the cauſe in court ſhall be either determined by Decree, or otherwiſe diſmiſt.

All *Iniunctions* with their Tranſcripts ſhall be likewiſe inroled, as heretofore was vſed.

All dayes giuen by the court to Sheriffes to Returne their Writs, Or to bring in their Priſoners vppon Writs of priueledge, or otherwiſe betweene party and party vnpriuiledged, ſhall bee filed either in the *Regiſters* Office, or in the *Petty-Bagge* reſpectiuely.

And all Recognizances taken to the Kings vſe, or vnto the courts, ſhall be enroled in conuenient time with the clerke of the Inrolement, And callenders ſhall be made of them, and the ſayd callenders ſhall bee preſented euery Michaelmas Termie to the Lord *Keeper* or Lord *Chancellour* being

In caſe of Suites vpon the *Commiſſion* for *Charitable vſes* to auoyd charge, there ſhall neede no Bill, but onely Exceptions vnto the *Decree*: and Anſwere is to bee made forthwith thereunto and thereupon: And then vppon ſight and peruſall of the *Inquiſition*, and the Decree brought vnto the Lord *Keeper* or Lord *Chancelor*, by the Clerke of the *Petty-Bagge*; His Lordſhip will giue order vnder his hand, for an abſolute *Decree* to be drawn vp.

Vpon

Vpon ſuite for a *Commiſſion* of *Sewers*, the names of thoſe that are deſired to be Commiſſioners, are to bee preſented to the Lord *Keeper* or Lord *Chancellour* in writing, And then his Lordſhippe will ſend their names to ſome Priuie Counſellour, or the Lieuetenant of the Countie, or ſome Iuſtice of Aſſize, reſiding in thoſe partes for which the Commiſſion is prayed; To conſider of them, That they be not put in for priuate ends: And vppon the Returne of ſuch opinion, his Lordſhip will giue farther order for the commiſſion to paſſe.

No new Commiſſion for *Sewers* ſhal be granted while the firſt is in force, except it bee vppon diſcouery of abuſe or fault in the firſt Commiſſioners, or otherwiſe vppon ſome great and weighty ground.

No Commiſſion of *Banquerupts* ſhal be granted but vppon *Petition* made to the Lord *Keeper* or Lord *Chancellour*, and the names of thoſe that are deſired for Commiſſioners ſhall bee preſented therewithall: Of which his Lordſhip will take conſideration, and alwayes ioyne ſome perſons learned in the Law, with the reſt that ſhall be allowed; yet ſo as care bee taken, that the ſame perſons allowed, bee not too often vſed in ſuch Commiſſions, And likewiſe, that Bond bee giuen with good Sureties, of the penalty of two hundred pounds at leaſt, to prooue the partie againſt whom the Commiſſion is ſued forth,

foorth, to bee a Banquerupt.

No Commiſſion of *Delegates* in any caſe of weight ſhall be awarded, but vppon *Petition* preferred to the Lord *Keeper* or Lord *Chancellor*, who will name the Commiſſioners himſelfe; to the end, that they may bee perſons of fitting quality, hauing regard to the weight of the Cauſe, and the dignity of the Court from whence the *Appeale* is.

Any man ſhall be admitted to defend in *forma pauperis* vpon Oath:

But the Complaynants are ordinarily to be referred to the Court of *Requeſts*;

Or to the *Prouinciall* Counſailes, if the caſe ariſe in their Iuriſdictions;

Or to ſome Gentlemen in the Country, except it be in ſome ſpeciall caſes of commiſeration, Or *potency* of the aduerſe party.

Suites after iudgement, muſt be brought, according to his Mareſties Order beeing vppon *Record.*

Licences to collect for loſſes by Fire or by Water, are not to be granted but vppon good Certificate; And they are rarely to bee renued; And they are euer to bee directed vnto the County where the loſſe did ariſe, if it were by Fire, and the Counties adjoyning vnto it as the caſe ſhall require: And if it were by Sea, Then, vnto the County where the Port is from whence the Ship went, and to ſome Counties adjoyning.

No Exemplification ſhall bee made of any Letters Patents *inter alia*, with omiſſion of the generall words; Nor of Records made voyde or Cancelled; Nor of the *Decrees* of this Court not Inrolled; Nor of *Depoſitions* by parcells or fractions, omitting the reſidue of the ſayd *Depoſitions*; Nor of *Depoſitions* in Court, to which the hand of the Examiner is not ſubſcribed; Nor of Records of the Court, not Inrolled nor fyled; Nor of Records of any other Court, before the ſame bee duely certified to this Court, and orderly fyled heere; Nor of any Record vppon ſight and examination of any Coppy in Paper; But vpon ſight or examination of the Originall.

I will withall ſet downe the very words, with which the Author concludes theſe laſt recited Orders; becauſe you may accordingly giue them extent, dimenſion, and valuation.

The Words are theſe, (viz.)

BEcauſe Time and Experience may diſcouer ſome of theſe Rules to be inconuenient; And ſome other fit to be added hereunto; Therefore his Lordſhip intendeth in euery ſuch caſe, from time

time to time, to publiſh ſuch *Reuocations* or *Additions*, as they ſhall offer themſelues.

Howſoeuer I take it, there is not much alteration had in them; it may bee there is ſome Addition: But for the *Roller* ſide (as vnto the making of *Decrees*, and granting of *Iniunctions*) which was heretofore exerciſed alike there, as in Court, or on the Lord *Keepers* ſide (which I conceiue grew by the connexing of the Lord *Keepers* Office, and Maſter of the *Roles* in the ſame perſon) I cannot ſay how the caſe ſtands at this preſent, hauing withdrawne my ſelfe now theſe ſeauen yeares paſt, from any practice in the Lawes in any kind.

And becauſe the Confirmation of Ordinances and by-Lawes, made for the better gouernment of Societies Incorporate, do for the moſt part paſſe through the hands of the Lord Keeper, *or Lord* Chancellor *for the time being, according to the Statute of the nineteenth of* K. Henry 7. *Therefore, and for that it is onely the path of a very few trauelliug in the Lawes; I thinke good to write according to mine owne Practice therein (as followeth.)*

IF a Corporation bee newly erected, and is to haue alſo Ordinances *de nouo*, made for the

better gouernment of their Company, or Body: They must first make a perfect draught of them by aduice of Counsaile in a Paper-booke.

Your Counsaile would be both learned in the Lawes of the Land, the Prerogatiue of the King, the Subiects right; and the Priuiledges, Powers and Customes of the great body of the City, or Towne corporate, wherein you are sub-incorporated as Brethren of a Trade, Mystery, or Occupation.

For any Ordinances made eyther against the Lawes of the Land, or the Prerogatiue, are not onely voyd in themselues, but farther punishable in those who execute them, notwithstanding any confirmation whatsoeuer. And therefore commonly in all Patents and Charters of Incorporation, there is a speciall clause of *prouiso* in this point and to this purpose.

And I doe heerein indigite at two manner of Ordinances, vnder which the Commonalties of corporation do much grone and complaine their pressures.

The one is a presumption and intrusion vppon the Birth-right of a Free-borne Subiect (*viz*) the Imprisonment of their bodies, for breach of an Ordinance of their company (a thing most vnlawfull, and vnreasonable, and yet too frequently practized by too many of them.) For colour whereof, I haue seene a Warrant *Dormant* lying in the Halls of some companies; vnder

vnder which they ſubſcribe the names of whom they liſt to commit; and then deliuer him to an Officer, who attends them at their Court for the purpoſe; and ſo it is not pretended to bee their owne act, but the will and commandement of a greater Magiſtrate.

Or an Intruſion vpon the Subiects Birth-right, by denying him to ſeeke Law and Iuſtice before the King the Fountaine of Iuſtice, in his Court at *Weſtminſter*.

Or to ſet vp and vſe his Trade, after hee hath arriued at his Freedome by honeſt ſeruice, according to the Lawes of the Land, and the ancient cuſtome of the place.

Or to take a Houſe for his beſt conuenience, aduantage and accommodation of his Trade:

Or the like.

The other Agreeuance which I poynt at, is a Conſumption and effuſion of the purſe and eſtate of the Subiect, by grieuous Fines, Amercyaments and Impoſitions, and by laying of Offices vpon them, which draw great expence, in Feaſting and profuſeneſſe; of which I ſhall take occaſion in a more fitting place, to ſpeake and write at more liberty.

I proceed with my Direction in the paſſing of any ſuch Ordinances.

The Paper booke beeing perfected by ſuch able Counſaile, you are to draw your Petition in the names of the Maiſter and Wardens, in name,

and in the behalfe of the whole Company, to bee directed and deliuered with the ſayd Booke to the Lord *Keeper* or Lord *Chancellour*, deſiring; Whereas ith ath pleaſed his Maieſty ſo to Incorporate you, and to giue you power to make Orders and Conſtitutions for your better gouernment; which Orders are by the Statue of the nineteenth of King *Henry* 7. to bee peruſed, examined, and allowed, by the Lord *Keeper*, Lord *Treaſurer*, and the two Lord Chiefe Iuſtices of either Benche, or three of them at leaſt, which prouiſion you are ready to obſerue and performe on your parts.

It may therefore pleaſe his Lordſhip to giue order to the two Lords chiefe Iuſtices, to peruſe, examine, and make the ſame fit and worthy the confirmation and allowance of his Lordſhip, and themſelues, &c.

Heerevppon, his Lordſhip giue order vnder your Petition: That the two Lords chiefe Iuſtices do accordingly peruſe, examine and make them fit, as is deſired.

They the ſayd Lord cheiſe Iuſtices doe by vertue of that Order and Warrant peruſe the ſame; and after they haue ſo altered, added, or ſuſtracted, as they ſhall thinke fit.

Then their Lordſhips giue order to one of their owne Clerks, to write them ouer fayre againe into a Paper booke coppy-wiſe. VVhich when they haue exactly examined with the former

mer ſo by them reformed, They ſubſcribe the ſame, and ſend them ſealed vp backe againe to the Lord *Keeper*: who vpon the opening thereof, and ſight of the approbation of the Lords chiefe Iuſtices, doth likewiſe giue order in writing, at the Foote of the ſayd Booke ſubſcribed with his hand, That the ſame be forthwith faithfully ingroſſed in Parchment (and in the *Chancery* hand) by ſuch an one as it ſhall pleaſe the two Lords chiefe Iuſtices to appoynt therevnto. And that they giue him teſtimony of the due performance thereof, by the confirmation of the ſame vnder their ſeuerall hands and Seales, and ſoe the Lord *Keeper* ſeales the Booke vp againe, and returnes it to the Lords chiefe Iuſtices, who giue direction for the engroſſement, according to the order aforeſayd.

And when the ſame is ſo engroſſed, and examined with the Paper booke, they ſet their ſeuerall hands and Seales thereunto, and deliuer it to your ſelues, to carry to my Lord *Keeper*, Vppon ſight whereof, he vſeth alſo to Seale and ſubſcribe the ſame.

But I pitty the caſe very much, that there is no Inrolement, Record, or Regiſter of any ſuch Ordinances kept in any place, the rather for ſoe many thouſands of people are gouerned by them, beeing Law to which they can haue noe recourſe, nor can conſquenyly take the true meaſure, by which they ſhould faſhion their man-

manners, to ſit ſmoothly to the body of their Ordinance.

It is not the reading of them once in a yeare in parcels and curſorily, can take impreſſion in the moſt learned of them (if there be any ſuch) much leſſe in the generall ſort.

I hope that ſucceeding times will looke into this euill, euen in the greateſt bodies incorporate, and giue it a fitting redreſſe.

And ſo much ſhall ſuffice for ſuch Ordinances.

I now returne to my other ſcattered pieces which I haue gathered together, and faſciculated into the little bundle Following:

Inſtruction how to ſue a Recognizance *taken in* Chancery.

IF you would ſue a *Renognizance* that is taken heere,

When it is Forfeited, you are to bring a Coppy of the ſame to one of the Clerkes of the *Pettie-Bagge*; And hee will thereupon make you two VVrits of *Scire facias*: The one of a *Returne*

turne paſt (if you will:)and the other of a *Returne* to come. Theſe you muſt deliuer to the Sheriffe of *Middleſex*, who will returne them, as the Law requireth him to do in this caſe.

And when they are returned, you are to carry them againe to the *Petty-Bagge*.

And to reteine one of the Clerkes there to be your Attourney herein.

And then giue the Defendant a day to appeare: which if hee doe not accordingly, a Iudgment is to bee awarded againſt him for his ſaid default.

And if he do appeare by the day to him ſo giuen; Then are you the Plaintiffe to *Declare* againſt him the Defendant, and hee is to anſwere and plead to you here, as is vſed in other Courts of common Law.

And when you are at full iſſue vpon the *Venire facias*, you are to haue your Witneſſes, and this is the vtmoſt extent of the proceeding here in *Chancery*.

For then if you will goe to Tryall, you muſt haue the whole proceeding heere written into Parchment; and it muſt either bee ſent by the Officer of the *Petty-bagge*, ſealed vp to bee tryed in the *Kings Bench*, or *Common pleas*, (at your election) or elſe it may bee deliuered ouer vn-ſealed; by the Lord *Keeper* or Lord *Chancellour*, which is agreeable with the words, *ſe propria manu, &c.*

Where note, that there can bee no Tryall by Iury here in *Chancery*.

Inſtruction how to ſue a Statue Staple forfeited here.

IF you will ſue a *Statue Staple* here.

You muſt firſt goe to the Clerke of the *Staple*, and ſhew him the date of your *Statute*, when it was acknowledged, which may alſo appeare by the *Statute* it ſelfe.

And then he muſt make your *Certificate* therevppon, and ſeale it vp.

Then are you to goe with it to the Clerke of the *Crowne*, and to get him to make the *Exigent* therein.

You muſt deliuer to the Clerke of the *Crown* your *Certificate*, You muſt then haue your Obligation made; and your *Extent* to bee made and endorſed on the backſide, as is vſed in ſuch caſes. This endorſement of the *Extent* is called the Fine of the *Extent*, which muſt be deliuered vnto the Sheriffe: who by vertue thereof is to impannell a Iury, to enquire, extend, and apprehend as well the Body, as the Lands, Goods, and Chatte's of the party ſo bounden.

And when they be ſo extended into the Kings hands; the Sheriffe may keepe them vntill you bring him a *Deliberate*, which you are to

haue

haue from one of the Clerkes of the *Petty-Bagge*.

Note alſo, that it concernes you to take good heed how you ſue out this *Deliberate*. For if there be not ſufficient eſtate or goods extended, wherewith to ſatisfie your *Statute*, and you ſue your *Deliberate* of theſe Lands and Goods, &c. extended, you ſhall neuer haue more then was ſoe firſt extended, and deliuered.

Wherefore if you doe vnderſtand or can conceiue that there be more Lands, or Goods, extendible in any other place elſe-where, you are to get them likewiſe to be extended, and when you haue ſufficient, to ſue out your *Deliberate*, then you are to deliuer vp your *Statute*, before you haue your ſaid writ, becauſe otherwiſe the Clerk of the *Petty-Bagge* will make you no deliberate at all.

The way how to ſue forth a Writ of Supplicauit, *whereby the party ſued ſhall not be releaſed till the partie grieued pleaſe.*

FIrſt you muſt take your corporall Oath before a Maſter of the *Chancerie*, that you doe not deſire it for any Malice, Hatred, or Enuey to the party: but for your owne quietneſſe, and ſafety; VVhereupon you ſhall haue a warrant to leade your ſayd *Supplicauit*, and thereuppon conſequently the writ it ſelfe, ſo ſooneas the ſame may bee written and ſealed.

After you haue the ſame granted, you may ſue out of the *Chancery* a VVrit of *Certiorare*, which you ſhould vſe in this manner, (*viz.*) VVhen you haue deliuered your *Supplicauit* to haue a Warrant thereuppon for the arreſting of the perſon ſued, and haue got him likewiſe arreſted, you muſt keepe your *Certiorare* very ſecret and vnknowne vnto him, till he haue put in Bond or Recognizance thereupon, with Sureties (as the caſe requires.)

For if hee take notice of it, Then he will lye in Priſon vntill hee haue procured a *Super-*

ſedeas

ſedeas vnto your *Supplicauit*; which if he doe, your *Certiorare* is of no force or vſe. Wherefore it concernes you to haue care herein:

And when the partie is Arreſted, and hath put in Sureties, to the Sheriffe or Iuſtice, who granted the Warrant vpon the Writ; And the party hath giuen Bond with Sureties; Then doe you deliuer your ſaid *Certiorare* vnto them that tooke the Bond, And thereuppon they are tyed to certifie the ſame vp accordingly.

So conſequently ſhall he ſtand bounden in ſuch manner, vntill you pleaſe of your owne accord to releaſe him.

This hath beene a practice very frequent heretofore, And yet it appeareth by an eſpeciall order made of purpoſe to obuiate this courſe, which Order I haue before recited in theſe collections, There was both care and prouiſion taken, for redreſſe and reformation, in this perticular caſe.

Inſtructions how to ſue forth a Superſedeas *vpon the former VVrit of* Supplicauit, *or the like writ.*

FOr that it cannot bee knowne but by ſearch and expence to the partie againſt whome the VVrit for *Peace* or good *Behauiour* is ſued foorth, In what Court the ſame is ſo ſued,

vntill hee bee arreſted for the moſt part; whether it bee out of the *Chancerie*, or the *Kings Bench*: wherefore to auoide that euill of beeing bound, Hee may ſue foorth and haue his *Superſedeas* euer in readineſſe about him, if hee ſuſpect any ſuch practice bee intended againſt him (as afore ſaid.)

The *Superſedeas* muſt be ſued forth thus, *(viz.)*

You ſhall rather in the *Chancerie*, then on the *Kings Bench* ſide, enter into Bond with Sureties *gratis*, with condition that you ſhall keepe the Kings peace, or bee of the good behauiour, during ſuch time as for which you ſhall ſo binde your ſelfe, and as the occaſion ſhall require: For if you ſuſpect that your Aduerſarie will haue the Writ onely to binde you to the Peace, then a *Superſedeas* will ſerue onely for the Peace; if for the good behauiour, then your *Superſedeas* muſt bee for the good behauiour; if both, for both.

When you haue ſo bound your ſelfe with Sureties; or Sureties in your abſence haue ſo vndertaken (as your *Mainucaptors*) for you before a Maſter of the *Chancery*, You may haue Warrant, And vpon the Warrant, your Writ of *Superſedeas*, ſo ſoone as the ſame may be written and ſealed.

And for your better eaſe, and direction in any of theſe caſes of ſuing foorth a *Supplicauit* or *Superſedeas*; enquire for, and addreſſe your ſelfe to the proper Clerke of the *Supplicauit* Office, which is euer kept, in or neere vnto *Chancery Lane*, and

and at this instant, at the *Rayne-bowe* neere to the Inner Temple gate.

I doe aduise you to sue forth your *Supersedeas*, rather out of the *Chancery* then the *Kings bench*, for these reasons,*(viz.)*

The condition of your Bond in *Chancery* doeth not tye you to make any appearance at the determination of your time limited for Peace or behauiour, But in the *Kings bench* it doth:

And if you doe not appeare there accordingly, your Bond is duely estreated; & now more strictly prosecuted then euer heretofore:

Besides, if you doe appeare according to the condition of your Bond, there is then a great charge which falls vppon you of course, for the withdrawing of your Bond, which dyes in *Chancerie*, or at least, it requires no retraction there:

Besides, the *Supersedeas* is in some case more potent, beeing taken out of the *Chancerie*, then out of the *Kings Bench*: For notwithstanding the Writ to binde, bee taken out of the *Chancerie*, and beare *Test* before, yet the *Supersedeas* out of the *Chancerie*, is sufficient against it howsoeuer: But I make question whether the *Supersedeas* of the *Kings Bench*, will ouer-rule the *Supplicauit* of the *Chancerie* bearing date before it, or no? I am perswaded (and as I remember) I haue met the experience of the priuiledge of *Prioritie* in the *Chancerie* Writ, in this Kinde: Neuertheless I leaue it to the farther consideration of him

that

that desires to buy a farther experience with farther expence herein.

Note also that you may haue your *Superseded as* to supersede one, or more, or all persons whatsoeuer at your owne election.

And so much for VVrits of Peace and Behauiour.

FOr the Amplitude of this Court, you shall note, that it extendeth it selfe into a larger dimension then *Smiths Commonwealth* does demonstrate, both in limnes and liuelyhood; especially in those two members of it, (*viz.*) the *Pettie-Bagge* and *Curitorie*; in both which, that Booke doth scent it ouermuch:

For besides Offices *post mortem*, which is onely attributes to the *Pettie-Bag*: This Office hath

The making out of all Writs of *Summons* to the Parliament:

All Latine Pleadings of the *Chancerie*, concerning the Question of any Patent or other thing whatsoeuer which passeth the great Seale:

Or whatsoeuer priuate Deede betweene Subiects, which is acknowledged in *Chancerie*, before the Lord *Keeper*, the Master of the Rolles, or any the Masters of *Chancerie*.

VVith Statutes and *Recognizances* taken in this Court:

Or transmitted hither.

VVith

With all ſuites for, or againſt any perſon priuiledged in the *Chancery*.

Beſides, it is a hand whereby to tranſmit diuers things from the *Riding* Clerke and the Inrolement Office, to the Chappell of the Roles.

And briefely, it hath ſuch variety of buſineſſe, that the place requires more learning and ability of Clerkſhippe then any other Office, ſaue that of *Prothonotaries* of the *Common Pleas* onely, (in my opinion.)

And for the *Curſitors* of the *Chancery*, They make both the originall Writs of the *Chancerie*, and of the *Common Pleas*: The Originalls of which Court of *Common Pleas*, I referre to the proper place, where I ſhall haue more occaſion to ſpeake of them hereafter.

Theſe *Curſitors* were incorporated by *Queene Elizabeth*, by the name of the foure and twentie *Curſitors*: amongſt whom, the buſineſſe of the ſeuerall Shires is ſeuerally deſtributed, and therefore you muſt, in all caſes where your ſuite is locall and tyed to the certaine County, addreſſe your ſelfe to the proper *Curſitor* of the ſame.

If any Suite depend before any Sheriffe in his Tourne or County Court, you may haue a Writ of *Chancerie* from the *Curſitor* of that County; called a *Recordare*, to remoue it.

If it lye in a Court Barron, your *Curſitor* will call it away with an *Accedas ad Curiam*.

If it lye in a Towne corporate, he will re-

moue it with a *Certiorare* returnable in *Chancery* (as aforesayd.) which may bee made of course, without any Bill exhibited.

And a *Procedendo* may be also made presently thereupon, before the Returne of the sayd *Certiorare*, and that of course likewise.

And also a second *Certiorare* and a second *Procedendo* thereuppon may bee made, But the second *Procedendo* should bee vppon a Bill exhibited, shewing good cause of equity why the Complaynant should be releiued.

And vppon Bond giuen by the complaynant or some other for him, with condition that the complaynant shall prooue the contents of the sayd Bill, the Court of *Chancerie* doth often grant a *speciall Certiorare*, signed with the hand either of the Lord *Keeper* or of the Mayster of the Rolles for the time being.

And the condition of this last receited bond, giues the Obligor onely the liberty of fourteene dayes to proue the contents of the Bill, which fourteene dayes must commence from the date of the returne of the sayd *Certiorare* to be granted, (as aforesayd.)

THE

The Fees of proceeding in Chancery follow.

	l.	s.	d.
Sub Pœna Writ to answere	0	2	6
If there be three in the *Sub pœna*, you pay sixe pence the more.	*tot.* 0	3	4

This *Sub Pœna* may bee serued in any libertie whatsoeuer, So cannot an Attachment.

The charge of drawing your Bil in the next which your counsaile at Law, must doe according to the Instruction which you shal giue him of the true estate of the cause. His Fee is at the least.	0	10	0
For the engrossing of your said bill foure pence a sheet at the least	0	0	4 *a sheete.*
The copy *inde*, two pence a sheete at the least.	0	0	2 *a sheete.*
The Attournyes Fee when you put it in, which is for the whole Terme,	0	3	4
The writing of the Oath made that the *Sub pœna* was serued,	0	0	6
The Oath,	0	2	4
The Attachment where the defendant appeareth not.	0	2	10

	l.	s.	d.
The breaking of it vp with the Sheriffe.	0	2	0
The Returne of that Attachment.	0	0	4
The Proclamation of Allegeance vppon the same.	0	2	10
The breaking of it vp with the Sheriffe.	0	2	0
The Returne of that Proclamation.	0	0	4
The Commission of Rebellon.	0	18	2
The *Rule* which the complaynant giues to the Defendant to make answere by a certaine day, in case where the Defendant doth appeare.	0	0	4
The Attachment, The Proclamation Commission of Rebellion. For not answering as in case for not Appearing.	*as aforesaid*		
The Defendants Apparance.	0	4	4
This is also his Attournies Fee, for the whole Terme.	0	*Vnd. Attorn.*	
The copy of the Bill, at eight pence the sheete.	*Eight pence the sheete.*		
His counsailes Fee for drawing of his Answere, according to his direction, at the Least.	0	10	0

For

	l.	s.	d.
For engrossing of this answere, at foure pence the sheete at the least.	0	*foure pence a sheete.*	
For Copy of this answere, at two pence the sheet at the least.	0	*two pence a sheete.*	
For the Oath made that this answere ia true.	0	0	4
For euery Defendant 4.d. *pro consimil*		0 — 0 — 4 *quilibit Def- pro consimil.*	
For the Commission to take the Answere in the country by *Dedimus potestatem.*	0	7	10
Besides the engrossing of the bil which is concluded within it	*euery sheete inde,*	6.d.	
The *Sub pœna* for Costs, giuen to the Defendant, in case where the complanant doth not put in his bil within the time alowed.	0	2	6
For a Bill of Costs and entery of it *inde.*	0	1	4
The *Attachment, Proclamation,* and *Commission of Rebellion.*	*as in case aforesaid.*		
A Ioynt *Commission* to examine Witnesses in the Countery *per* peece.	0	7	10
A *commission ex parte,* to examine witnesses in the Countrey.	*The partie beares both parts of the charge.*		

	l.	s.	d.
For examination of the first Witneſſe heere before Examiners.	0	2	6
For euery Witneſſe examined afterwards.	0	2	6
For drawing of the *Replication*, if it be done by Counſell, as in caſe for the Bill.	*as for the Bill.*		
For the *Reioynder*.	0		*the like.*
If there be no new matter in the *Replication* or the *Reioynder*, your Attourneies Clerke will draw them for you of courſe, for ſome ſmall matter.	*as you can agree.*		
For the Copies of the Depoſitions of any Witneſſes returned by Commiſſion.	*euery ſheete* 0	0	8
For Copie of Depoſitions taken heere.	*euery ſheete* 0	1	0
For a Motion in Court.	*Counſailes Fee.*		
For the drawing of the Order thereupon *cum Cop.*	*euery ſide* 0	3	0
For entering of the Order.	*euery ſide.*		*6.d.*

Fees

Fees of an Iniunction follow.

	l.	s.	d.
INjunction in all *vijs & modis.*	1	2	6

Fees of a Decree follow.

FOr a decree the drawing, &c.	*as in case of an order.*		
Sub Pœna to Testifie,	0	2	6
Sub Pœna to *Reioyne*,	0	2	6
Sub pœna to *Heare Iudgment*:	0	2	6
For getting the *Hearing* to be set downe.	0	*as you can agree with your Attourney.*	
For the *Rules* to publish the witnesses, being foure.	*per* piece	0	4
For copy of *Replication*, *Reioynder*, *Rebutter*, *and Subrebutter*, as for copy of Bill or Answere.	*as aforesayd for Bill and Answere.*		
Sub pœna super ordinem, to shew cause.	0	7	2
Sub pœna of *Duc as tecum*	0	7	2
Sub pœna de executione ordinis.	0	10	0

The charge of a Supplicauit in Chancerie.

	l.	s.	d.
Item, the Oath.	0	0	4
Item, the *Supplicauit* it selfe.	0	5	6
Item, the warrant vpon it, *vic.*	0	2	0
Item, For the *Certiorare* to certifie the Bond taken vppon it.	0	2	6

Charge of a Supersedeas in Chancerie.

TO the Master of the *Chancerie* for taking of his Baile.	0	2	0
For the Warrant.	0	2	0
For the Writ.	0	5	6
For the Allowance of it.	0	2	0

These sayd Fees bee onely of the case of a single person, and for the peace onely.

But if it be of more persons, or for behauiour, as well as the Peace, then the charge is accordingly enlarged.

THE

The Fees of all originall writs ſealed in the Chancery.

A

	l.	s.	d.
Accedas ad curiam.	0	2	7
Admenſuratio paſturæ.	0	5	7
Ad quod Damnum.	0	7	2
Annual. reddit.	0	1	6
Aſſiſ. Cuiuſq; generall.	0	5	6
Attinct.	0	7	2
Audita querela.	0	7	2

C

Certiorare.	0	1	6
Ceſſauit.	0	2	6
Conſpiracy.	0	5	6
contentione.	0	2	6
Coranator. eligend.	0	7	2
Cui in vita.	0	2	6
Cur claudend.	0	2	6
Comperuit.	0	2	6
Sum. bre. de Couenant.	0	2	6

	l.	s.	d.
D			
Dieu clausit extremum.	0	2	6
Dedimus potestatem super bre. de Con. Dot.	0	2	6
Speciall Dedimus potestatem.	0	7	2
Originall de Debt & detinew.	0	1	0
E			
Electione firme.	0	3	6
Electione Custod.	0	2	9
Excommunicat Capiend.	0	7	2
Execut. in De.	0	2	6
Expenc. nullat.	0	7	2
Error in London.	0	7	2
Patem inde.	0	7	2
Elegit.	0	10	0
F			
Also Iudicio.	0	2	6
For. fac. Maritag.	0	2	6
Forma Donationis.	0	2	6
H			
Hered. Capi.	0	2	6
Com. replev.	0	5	6

Reprise

L

Leproſo. amouendo. 0 5 6
Libertat. proband. 0 5 6
Libeatat. allocand. 0 7 2

M

Moderat. 0 2 6
Maintenand. 0 2 6
Minus. 0 2 6
Monſtrauerunt. 0 5 6
Mittimus. 0 2 6
Mandamus. 0 7 2

N

Nocunt. 0 2 6
Non moleſtand. 0 2 6
Non Omittas 0 5 6
Non Ponend. in Aſſiſe. 0 7 2

O

Officiar non faciend. 0 5 6
Ordinar non ſeruiend. 0 2 6

P

Pact. fract. 0 2 6
Partic. faciend 0 2 6
Paten. bre. de errore corrigend. in Aſſiſ: attinct. 0 7 2

	l.	s.	d.
Pleg. acquietand.	0	2	6
Pone.	0	2	6
Perambulac. faciend.	0	5	6
Palibus reparand.	0	2	6
Post desseisin.	0	2	6
Præcipe in Cur.	0	2	6
Procedend.	0	2	6
Prohibition.	0	7	2
Propriat. proband,	0	2	6

R

Recte clauſ,	0	2	6
Recte patent.	0	2	6
Redisseisin.	0	7	2
Reparatio Pontium viarum domini.	0	2	6
Repleg. Originall.	0	1	6
Reſcous.	0	2	6
Recordare	0	2	6

STV

Significauit.	0	7	2
Bre. de estat.	0	2	6
Sub pœna.	0	2	6
Superſed. inde.	0	7	2
Superſed. pro pace.	0	5	6
Superſed. omn. al.	0	5	6
Tranſ.	0	1	0

Tranſ.

	l.	s.	d.
Transf. super casum.	0	2	6
Valore Maritagij.	0	2	6
Vasc.	0	2	6
Villat remouend.	0	2	2
Vitar. eligend.	0	2	2

W

Warrantia charta.	0	2	6
Warrantio Diei.	0	5	6
Withernam.	8	5	6

And so much for the Original Writs issuing out of the *Chancerie*.

I Must acknowledge that I haue omitted the Records enrolled in the Chappell, and those that are either in the hand of the *Controler* of the *Seale* and riding Clerke, or else in the middle of their iourney, trauelling ouer to the Chappell; because they are an homogeneall part of my former *Tractate*, touching direction for *Search of record*, which I shall (by Gods assistance) both perfect and amplifie with my best and first oppertunity hereafter. And as I haue also ommitted a final colation which I haue made out of the *Petty-Bagge* and other places, of the seuerall Stiles of all Townes Corporate in *England* and *Wales*, according to their seuerall Patents of Incorporation, with the Stiles of al

other Miniſters of any Courts, to the which any Attourney may haue occaſion to direct his Writs of *Habeas Corpus*, and the like in any occaſion; Becauſe this laſt will be a Booke of ſuch continuall vſe vnto them, that it is onely fit to be publiſhed by it ſelfe in ſuch a ſmall Volume, as may be portable in euery pocket. Therefore I doe likewiſe intend to ſet it forth as a little Cockboat, to this greater veſſell, very ſpeedily, it beeing already finiſhed.

And thus I conclude with the Court of Chantery, reſeruing the Fines payable vppon orginall Writs, to the practice of the Court of Common-pleas, becauſe they beſt know the price of them.

THE

THE COVRT OF REQVESTS: OR, *White-Hall at VVestminster.*

THis is likewise a Court of Conscience and Equitie.

And the practice thereof is by English Bill, Answere, Replication, and Reioynder, like to the former in *Chancery*,

The forme of their proceeding is generally alike.

Only, This Court, in stead of the leading Writ of *Subpœna*, vseth a *Priuy Seale*:

Or

Or otherwise to ſummon ſuch as are neerer hand, by their Meſſenger and proper Officer of the Court.

Their Fees in the point of proceeding, are for the moſt part alike.

Onely in ſtead of two ſhillings ſixe pence for Summons by *Sub pœna*, you pay at the leaſt for Summons by *Priuy Seale*: 8. s.

Or if the Summons bee made by the Meſſenger here in towne, you pay to him for his paynes. 3s.4d.

For euery party ſummoned.—the like

Beſides for his Warrant to do *ad libitum*, what you pleaſe as I take it.

This great burden at the very entrance into a Suite heere, doth much hinder the Court, if they would duely conſider it.

And ſo much for the Court of *Requeſts*.

THE

THE COVRT OF THE PROVINCIALL COVNSELL OF THE Marches of Wales.

THis Court of the Prouinciall Counſell for the Marches of Wales holdes the like forme of proceeding generally and for the moſt part, as doth the Chancerie before mentioned.

The greateſt difference is in the Leading Proceſſe of the ſame.

And therefore I ſhall not neede to recite the ſame thing againe, but proceed in

THE COVRT OF THE PROVINCIALL Counsell, established at YORKE.

THis Prouinciall Counsell followes the course of preceeding likewise vsed in *Chancerie*.

And for your better direction, that you may vnderstand the Lords Presidents Powers and priuiledges, in either of the two Prouinciall places, I referre you to their Instructions remaining on Record in the *Chancerie*, whereby you may bee fully satisfied in this point, &c.

The greatest difference heere likewise is in the Leading processe.

And both the Prouinciall Counsels are often subiect to the Prohibitions of the Courts at *Westminster*, which makes many of both Iurisdictions those rather to begin their Suites here, then at their owne home.

THE

THE COVRTS OF THE County Pallatine of *Cheſter*; County Pallatine of *Lancaſter*; County Pallatine of *Dureſme*;

AND

The Chancerie of London; with the Exchequer Chamber *Weſtm.*

IN the formalitie of their proceeding doe all imitate the practice of the Chancery, *before ſet forth and declared, admitting onely ſome ſmall mixture of the Common Law in ſome eſpeciall caſes.*

And in ſome thinges they are led by their proper cuſtomes and preſcriptions reſpectiuely:

So that hee who is a ſufficient practitioner in our great Chancerie, *may bee able and worthy the admiſſion into any Court of Engliſh proceeding whatſoeuer or whereſoeuer.*

I make the next gradation to Courts of Common Law; And both for mine owne eaſe, and the

benefite of the Reader, I will beginne at the Court of Common Pleas, *as the onely Leader to all other Courts, for all kinde of matters appertaining to the Common Law; Otherwise if I did beginne with the* Kings Bench, , *for the prioritie and dignitie thereof, I should runne into this inconuenience, that I must bee forced to repeate the same thing ouer againe in personall actions, and mixt actions; both which the* Kings Bench *admitteth and holdeth, &c.*

THE

THE COMMON-PLEAS PRACTICE.

FIRST you are to vnderſtand of what nature the Action which you would ſue to bee.

If it be for Debt vpon a Bond, you muſt take a ſpeciall care that your Originall doe agree with the Bond; For otherwiſe your proceeding will be erronious.

And you muſt make them agree thus: *(viz.)*

London: *Precipe Rico. Scot. nuper de London. generoſ. (alias Dict.)* As in the Bond *literatim*; and in the ſame wordes and Letters as the partie ſued is ſtiled and titled in the Bond. *Re. Thom. Smith* twenty pouud, &c.

If it be an Action of Treſpaſſe, Or an Action vpon the Caſe; Then you muſt ſtyle and title the Defendant whome you ſue thus: *(viz.)*

London: *Si Thomas Smith Fec. &c. Tunc pone, &c. Ricard. Scot. in London generoſ. oſtenſ. quare*

cum &c. without any *alias* at all required, to be in such actions.

When you haue made this note of direction, for the drawing vp of your Originall and leading Writ, you must deliuer it to the *Chancery* man, which is the *Cursitor* for the Shire where you lay the action, to make this your Originall VVrit, and to get the same sealed.

This Originall being so made, sealed and deliuered vnto you, your selfe may returne, except the Defendant whom you sue bee a Free-holder of the Shire, where you lay your action.

If the Defendant be a Free-holder in the Shire where the action is layd: then you must deliuer your Originall to the Sheriffe of the Shire to returne it.

If the Sheriffe do returne the Defendant sufficient: then soone after the sayd Returne, when the Originall is filed, the Plaintiffes Attourney must go to the Office of the *Philozer* of the said County, and there search and bee satisfied whether any Attourney hath appeared for the Defendant or no?

If the Plaintiffes Attourney doe finde that the Defendant appeareth, the Plaintiffes Attourney (if he can) or otherwise some one Clerke of the *Prothonotaries* Office whom he may procure, must draw vp his *Declaration* against the defendant, for which purpose the sayd Clerke must haue the Bond, and take out the writ into the

the *Prothonotaries* Remembrance, and alſo muſt know where the Plaintiffes Attourney will haue the Obligation to be layd for the *Reinde*.

VVhen the declaration is deliuered to the defendants Attourney: the Attourney or Clerke for the Plaintiffe, is vppon demaund to ſhew to him the Obligation it ſelfe, to the end that he may examine the declaration with the ſame, and ſee and take notice of the witneſſes names, who do teſtifie it.

In like manner are you to proceed in an Action of debt vppon an Indenture, or debt due by Teſtament, or Letters of Adminiſtration, you muſt vppon the declaration and demaund made, ſhew the Indenture, the Teſtament, or Letters of Adminiſtration as the caſe is, that they may be conferred together.

And in an action of debt vppon an Indenture, the Originall muſt bee made to agree with the Indenture, as in caſe of an action of debt vppon Bond, in the ſecond addition, or the *alias dict. vt ſupra*.

The Attourney of the defendant may, when the appearance is made for his Clyent, haue Coſts, and diſmiſſe the Plaintiffe, if hee doe not declare within his time prefixed.

When the defendant hath appeared, and the Plaintiffe hath declared, and thereupon the defendant hath anſwered, or pleaded, Hee may giue to the Plaintiffe a day to Replie:

VVhich

Which if the Plaintiffe do not accordingly, Then the Defendants Attourney may discontinue the Action of the Plaintiffe, and make him to begin anew.

And if the Defendant bee returned sufficient, And no Attourney appeareth for him vppon the Originall: Then the Plaintiffes Attourney must put his name to the *Phillozers* booke, called the *Remembrance*, where the *Originall* shall bee taken out: And marke the same *Remembrance*, when his next Processe which is a *Pone* shall bee returnable.

This next Processe hee must seale and deliuer to the Sheriffe.

And if at the day of the Returne thereof, no Attourney do yet appeare for the Defendant: Then the Plaintiffes Attourney must in like manner marke the Remembrance, and take out another Writ against him called a *Distresse*, and so the Plaintiffe may sue out *Distresse* after *Distresse*, vntil such time as the Defendant doth appeare.

And if the Sheriffe shall returne such small issues for fauour, as whereby the Defendant is encouraged to stand out, and will not appeare: Then the Plaintiffes Attourney himselfe may moue the Court for increase of *issues*, or else Amerce the Sheriffe.

If the Defendant haue no Free hold within the Shire where hee is sued: The Plaintiffes Attourney must returne the Originall Writ

VVrit in Debt or Treſpaſſe on the back-ſide thus: (*viz.*)

Pleg. de proſequend.
I. Doo,
Rich. Roo.

Infra nominat *Richardus Scot*, Nihil habet in baliua mea vnde poteſt Summ.

Iohannes Smith, *mile vic.*

IF the Originall bee in the Treſpaſſe vpon the Caſe, Returne it (as aboue) ſauing in ſtead of *Vnde poteſt Summ.* let it bee *vnde poteſt Attach.*

The Returne of the ordinary Proceſſe of *Capias* to the *Exigent*, is, *Infra nominatus* Richardus Scot, *non eſt inuentus in balliua mea.*

There muſt bee allwayes betweene the *Teſte* of the Original, and the Returne thereof, full fiueteene dayes *incluſiue*, at the leaſt.

And ſo of the *Cap. alias Cap.* and *plur. Cap.*

And betweene the *Teſte* and the returne of euery *Exigent*, there muſt bee fiue County Court dayes, or fiue dayes of the Huſtings, as is vſuall in this kinde of buſineſſe.

The *Exigent* and *Proclamation* muſt both bee the ſame *Teſte* and of the ſame Returne.

An *Exigent* in the Countrey hath fiue County dayes for his Returne (the County Court being kept onely once in a Moneth)and ſo conſequently it requireth fiue Moneths.

But in the Huſtings in London, the Returne is much ſpeedier.

And if the Defendant do not appeare by *Superſedias* before the fifth County day,or day of Haſtings (as the *Exigent* lyeth)then he is, vpon the fifth Exact.returned vtlawed.

You muſt haue a care withall,that vpon the Returne of the *Plur.Cap.* preceedent,it bee duely filled.

At the going forth of the *Exigent*, you muſt make your Warrant of Attourney on this manner, (*viz*) *Willielmus Wild generoſus, Pl. polo ſuo: I. T. verſ. Iob.Fludd de Braynford in Com. prad. Yeom. de plac. debit.* or *de plac. tranſſ.* as the action is : This you muſt deliuer to the Clerke of the Warrants.

The Defendants attourney is to put in his warrant of attourney vppon the *Iſſue* or vpon the *Demurrer*,and not before.

If the Sheriffe haue the *Cepias,alias Cap.* and *Plur. Cap.* deliuered vnto him, and ſhall returne a *Cepi Corpus* vpon any of them,then the Plaintiffe ſhall haue no farther Proces againſt the Defendant.

If vpon any ſuch Returne no Appearance ſhall be made on the Defendants part, then the Plaintiffes Attourney muſt goe to the *Philizoers* or the *Prothonotaries*, and get the ſame Writ or the Returne thereof taken out; And then giue to the Sheriffe Day to bring in the body of the Defendant, or elſe be amerced at the diſcretion of the Iudges.

And if the Sheriffe doe not bring in his priſoner by the day giuen, then the Plaintiffes Attourney is to get the Amerciament to be *Eſtreated*; And to ſue out a Writ of *Habeas Corpus* to bring in the body of the priſoner.

And if the Sheriffe who did ſo arreſt the Defendant, bee out of his Office before hee doe returne your ſaid *Habeas Corpus*, and the Defendant appeareth not yet; then you are to ſue foorth *Diſtringas nuper vic.*

The *Phillozer* vppon making out of the firſt *Capias*, enters into the Role an *Appoſen*, So that it may appeare vpon Record: which *Appoſen* the Plaintiffe may continue for a Terme, two, or more if he pleaſe.

And their Common Proceſſe muſt haue at the leaſt fifeteene dayes betweene their *Teſte* and Returne.

If Proces remaine vncontinued by diuers Termes, and no exceptions be made thereof by the Defendant; the ſame may bee continued by the Plaintiffes Attourney, paying to the *Phil-*

lozer or his Clarke for euery continuance, foure pence *per* peice.

And if the Defendant do dwell in one County, and the Suite bee commenced in another; Then there muſt goe forth a Proclamation vnto the Sheriffe of the County where the Defendant doth dwell at the time when the *Exigent* is awarded; And this Proclamation muſt beare *Teſte* and Returne with the *Exigent*, and both muſt bee returned (the Defendant not appearing)

And if the Defendant doe put in *Superſedeas* before the returne of the *Exigent*, then the Plaintiffe neede not care for the Returne of the Proclamation.

And if the Defendants Attourney come not to the *Prothonotaries* Clerke, and take a Copie of the Declaration, and make an anſwere to the ſame within nine dayes after the Returne of the *Exigent*; Iudgment ſhall be awarded againſt the Defendant.

And if the Plaintiffe do not make his Declaration ready within foure dayes after the Returne of the *Exigent*, Then the Defendant may call the Plaintiffe *non Suite*, and recouer his charges.

And if the Defendant will haue a *Superſedeas* vppon *Maine-priſe*, It muſt bee ſued out of the Clerke of the Treaſury his Office vppon Sureties That if the Defendant make default, hee ſhall pay the fine.

If the Sheriffe returne to ſmall *Iſſues* vppon *Diſtreſſe*, the Plaintiffe may haue *Amerciament* againſt him, and haue him called into the Court to amend the *Iſſues* for the Kings aduantage.

If the Plaintiffe bee not ready to Reply vpon pleading, He may enter *Imparlance*, and giue day ouer vntill the next Tearme, vnleſſe the Defendants Attourney preuent him, by giuing to him a Rule and day certaine to Ryply.

At the day of *Imparlance*, The Plaintiffe is to call the Defendant, and to giue him a day to plead or anſwere againe, or to make it knowne, whether hee will ſtand to the Plea or Anſwere which he made in the precedent Terme or no?

And if the Defendant doe neither make knowne, that hee will then ſtand to his former anſwere, nor anſwere *de nouo* vppon ordinarie dayes giuen vnto him, Hee ſhall be Condemned in the Cauſe: for hee cannot then refuſe as hee might vpon an *Alias*.

VVhen any matter is pleaded to an *Iſſue*, The Plaintiffes Attourney muſt haue a care, to ſee the *Iſſue* be tightly entered into the *Prothonotaries* Role, And thereuppon put in his VVarrant of Attourney, if it bee not in before at the *Exigent*, in manner (as aforeſayd)

But it is moſt requiſite that the VVarrant ſhou'd bee put in vppon the *Exigent* by the Plaintiffes Attourney, for feare leaſt the Defendant ſhould not appeare; but be returned vtlawed.

And the Defendant, in caſe the Plaintiffe ſhal faile to put in his Warrant (as aforeſaid) may ſue error in the proceeding, and aſſigne the want of a VVarrant, which is manifeſt error; and thereuppon the Plaintiffes attourney ſhall pay tenne pounds.

After the Iſſue is entered, the Plaintiffe may ſue forth *venire facias*, or elſe continue it for a Terme or two.

And vppon the Plaintiffes default by ouerlong delay, the Defendants attourney may ſue forth *Venire fac.* pannell.

Note, that you may enter the firſt *Ven. fac.* returned fifteene dayes after; at which day, the VVrit of *Niſi Prius*, with the *Hab. Corp.* is alſo awarded, and the Triall likewiſe (if it bee in London)

After verdict vppon Triall, the *Poſtea* is returnable in his due time.

Thereupon the iudgment is entered, and a *Capias* goeth foorth firſt into London, becauſe the action is laid in London: This *Capias* is to be returned fifeteene dayes after *Non eſt inuentus*; and then goeth forth *Capias* with *Teſtat.* into the Country where the Defendant dwelleth; then is execution ſued out and not before.

Note alſo, that if the Sheriffe at the day of the *Ven. fac.* do returne the ſame ſued, then the Plaintiffes attourney may haue a *Hab. Corp.* thereuppon to be made by the Clerke of the Iuries, which

which hee is to ſee well examined when hee fetcheth the ſame away from thence.

And at the Returne of the ſaid *Hab.Corp* if it be at the aſſizes, and the Iury fill not at the calling of them, the Plaintiffes attourney may craue a *Decem tales et circumſtantibus*, Ten the like of thoſe that be ſtanding by, to fil vp the Iury.

But if it be at the *Common-pleas* Barre, He may not craue a *Tales de Circumſtantibus*, but a *Tales* onely, or ſue a *Diſtreſſe* with a *Tales*.

The firſt onely is a *Decem Tales* at the Barre: The ſecond, an *Octo Tales*, if the *Decem* did not fill; Soe from *Octo*, vnto *Quinto*: and from *Quinto* to *Duo Tales*, hee muſt diſcend till the Iury be filled, all which the ſaid proceſſe muſt bee taken out of the *Prothonotaries* Office, or the Office of the Clerke of the Iuries, which bee reſpectiuelie entered moſt duely.

And if the Sheriffe vppon any of theſe ſayd VVrits doe returne *Tarde*, for want of ſufficient time to warne the Iury, You are to ſue forth an *Al.diſtreſſ*.

Note, that if a *Plea* bee pleaded heere by the Defendant, and the Plaintiffe haue therevppon replyed: if if it bee a plea of a former Terme, the defendant can neuer amend or with-draw his plea, except it bee in Letters or Syllables, But if it be in the ſame Terme he may.

For in this Court euery plea is, or ought to bee

be entred in euery Terme as it is pleaded; howsoeuer it is otherwise in the *Kings Bench*.

If the Defendant be returned *sufficent* in an action of Trespasse, A *Distresse* is to be awarded.

And if hee be returned *Nihil*: then the seuerall *Cap*: and an exigent be awarded.

If an *Vltary* bee returned, then lyeth a *Capias vtlagant*, generall, which is for the body onely.

Or else a *Cap. vtlagat.* speciall; which is for the body and goods.

Note, that if you doe sue any of the Nobilitie of this Land, who are of the Parliament House, in any action whatsoeuer, wherein Processe of *Vtlary* lyeth; Although the Sheriffe returne him *Nihil habet*, yet you may not sue a *Capias* against him, but a *Pone*, into the Shiere where his Land lyeth: whereupon if he do not appeare, hee looseth fiue pounds. And after a *Pone*, you shall sue a *Distresse*, and *Distresse* after *Distresse*, *in infinitum*, vntill he doth appeare.

If after the Sheriffe haue taken the Defendant vpon a *Cap. ad satisfaciend.* for the Plaintiffe, He suffer him to depart vpon Sureties, or pawne, and commit him not to safe keeping, It shall bee said an escape against the Sheriffe.

And then the Plaintiffe may at his election choose whether hee will call for the Returne of the VVrit, or sue the Sheriffe for the Escape, and recouer his Debt and Charges against him: Otherwise hee may haue his *Capias* and *Exigent*,

and

and vpon Returne thereof vtlaw the Defendant vpon the Iudgment.

After this kinde of *Vtlary*, the Defendant ſhall neuer haue his pardon, except he firſt agree with the Plaintiffe, and ſatisfie him.

Alſo the Plaintiffe may at his election haue a VVrit of *Elegit* in this caſe, to extend vpon halfe the Lands and goods of the Defendant: except Cattle and Oxen for his plough &c.

But it behoueth the Plaintiffe to take good heede how he ſueth forth the ſaid VVrit of *Elegit*: For if it be once entered, you ſhall neuer haue any other Execution.

Alſo after a iudgment, the Plaintiffe may haue an Execution of *Fieri facias de bonis & catallis*, and thereby leauey his whole ſumme that is giuen, with the Coſts, or ſome part thereof, according to the value of the goods of the Defendants which he can finde.

And if at the firſt he bee not ſatisfied of his whole ſumme, hee may ſue forth another *Fieri fac.* and ſo one after another, till he bee fully ſatisfied of his whole Debt.

Your Proceſſe being in a VVrit of *Reſcous*, and *Rauiſhment of a Ward*, as in Treſpaſſe you ſhall hold like proceedings of *Attach.* and *Diſtreſſe*, and for want of *Diſtreſſe*, three *Capias* and an *Exigent*.

The like in a *Quare eiecit infra terminū, & Eiectione firme*, and this was giuen by a late ſtatute

And the like by the ſame Statute, in a Writ of *Annuitie* and Couenant vppon an Indenture.

But in a Writ of *Entry*, the like proceeding is not, for the Proceſſe is *Grand Cape*, and *Petit Cape*.

The *Grand Cape* lieth, when any of thoſe VVrits are deliuered to the Sheriff to ſummõ the Lands, and, if at the returne of the ſame, the Defendant appeareth not, but maketh default, then the *Prothonotaries* Clerke is to giue a day to the tenant to come in, or elſe a *Grand Cape* ſhal be awarded of the Land, whereuppon he ſhall be in the courteſie of the Court, whether they will grant him a *Superſedeas* for the diſcharge of the ſame, or no. Otherwiſe hee is to wage his Law, and depoſe that hee was not lawfully ſummoned, which if he doe, and it bee afterwards proued that hee was lawfully ſummoned; then he is in danger of periury.

If the Tenant or Defendant doe not appeare vpon the *Grand Cape*, then a *Petit Cape* is to goe forth, and a day likewiſe to bee farther giuen, and vppon default of appearance, then the Lands in queſtion are recouered, and thereuppon the *Cape* is directed to the Sheriffe to ſeize the Lands into the Kings hands, vntill farther Proces, &c.

Note that the Demandant is to take great care, that there bee no *Eſſoyne* caſt by the Tenants

nants Attourney in this caſe, for him the ſaid Tenant to appeare.

For if hee haue before that time caſt his *Eſſoyne*, then may he vpon day giuen, call the Demandant *non-ſuite*, and cauſe him to begin againe.

Therefore the Demandants Attourney in this caſe muſt eſpecially inuigilate the Office of *Eſſoynes*, and in *Reall* actions to get his VVrit fylled, and to enter a *Recipitur*, as in a VVrit of *Dower*.

Warrentia charta, *De droyte*, *& Surdiſſeiſin*, haue the like proceeding, becauſe their Proceſſe is alſo alike.

If you haue Iudgment in any action, and ſuffer the Iudgment to continue without doing of any thing therein, by the ſpace of a yeare and a day, you ſhall then be forced by reaſon of ſuch delay, before you may take out any execution thereuppon, to ſue out of the Court where your ſaid iudgment is Recorded, a writ of *Scire facias*, and after the Returne thereof you are to giue a day to the Defendant to come into the Court, and to ſhew cauſe why the Iudgment ſhould not be awarded againſt him vpon his default; whereuppon if good cauſe be not ſhewed, the Iudgment is to bee allowed, and execution may be taken forth.

In caſe where the Plaintiffe or Defendant happen to dye after Iudgment and before execution,

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In caſe where the Plaintiffe or Defendant happen to dye after Iudgment and before exe-

cution; Then are the Executors or Administrators of the Plaintiffe to sue out a VVrit of *Scire facias*, against the Defendant, his Executors, or Administrators, which being returned, then the Execution of *Fieri facias* at the first, and in case where the Defendant is dead, must bee awarded onely of the goods of the Testator or Defendant defunct, and not of the goods of the Executor or Administrator.

This execution of *Fieri facias*, being deliuered to the Sheriffe to bee executed, if the Sheriffe shall finde that the Executor or Administrator did diuaste the goods of the Testator or Defendant defunct; and shall thereupon returne a *Diuastauit*; Then shall a VVrit of *Fieri facias* be awarded *de propriis bonis Testatoris*, or *Administratoris*; Or otherwise Execution may bee taken forth against the body of the Executor or Administrator, at the choyce of him that sueth it out.

How to sue a matter of Errour.

IF you would sue a matter of *Errour*, you must either make a perfect true Copy of the Originall, or of the *Exigent* in that cause, and carry it to the *Cursitor* of the Shiere, where the Action lyeth, thereby to make your VVrit of *Errour*.

VVhen

VVhen you haue your Writ of *Errour* (if it be before Iudgment) you may deliuer it to the Clerke of the Treasurie, whereuppon the Attourney for the Plaintiffe is to deliuer vnto you the number of the Roles where euery thing is entered.

And if it bee after Iudgment, Then before you know the number of the Roles, you must shew cause of *Errour* to the Court; or else your Writ will not be allowed.

And in case that when the Writ bee alowed, the Plaintiffes Attourney must deliuer the number of the Roles; o the Clerke of the Treasury: who will deliuer the VVrit ouer with the Record.

And then if the Defendants Attourney doe not get his Record to bee certified the same Terme, the Plaintiffes Attourney may procure a day to bee giuen in Court vnto him to do it, and to remoouethe same.

By which day if the Defendant doth it not accordingly, then hath hee lost the benifit of the *Errour*. And after one VVrit of *Errour* so put by; the Defendant shall neuer haue any more.

And if the Record bee accordingly certified, then the next Terme following you are to assigne the *Errours* there.

Otherwise there will goe forth two VVrits of *Scire fac.* to be deliuered to the Sheriffe of *Midd.* and to giue you warning to assigne the *Errours*,

which if you doe not within three or foure dayes after the Returne of the latter of the ſayd two Writs, the Writ of *Errour* will bee quaſht, and you ſhall loſe the benefit thereof.

And if one be vtlawed vpon meane Proceſſe, and would reuerſe the ſame by writ of *Errour*, hee muſt take this courſe: (*viz.*)

Looke if there be any Writ vnreturned,
Or any VVrit miſ-returned:
Or any VVrit vnſyled:
Whether the *Proclamation* bee ſyled, or no?
And whether it bee well returned:
Or whether a Warrant of Attourney be put in or no?

All theſe before mentioned be *Errours*, which before Iudgement the Court will correct themſelues.

And if you finde any of the ſaid *Errours*, you muſt goe to the Clerke, and ſhewe him the number Role where the *Exigent* is entred, and cauſe him to enter the *Vtlary*.

This being done, you are then to get the Bundles where any ſuch writ is ſyled, to bee brought into the Court, from the Office of *Cuſtos brevium*, where they be kept.

Then you muſt haue one to enforme the Court therefore on your behalfe.

If the Errour which you pretend bee for want of a Proclamation, then you are to get aſwell the Record

Record of the Terme where the *Exigent* is entred, as the bundle of VVrits to bee brought into the Court to be reviewed.

And the like you are to do of the meane Proceſſe.

And if it ſhall appeare to the Court, That any of the Proceſſe bee fyled and not returned, Or there be error in the Returne, Or there bee want of meane Proceſſe, or Proclamation; the Court will award the the *Reuerſer* to bee entred.

And if the party vtlawed can finde no Error, and yet would vndoe the vtlarie, if it bee vtlary before a Iudgement; He is to ſue out his writ of Errour, and thereupon a *Superſedeas*:

Then hee muſt ſue out his pardon of Courſe, and vppon that, Hee may haue a *Scire facias* directed to the Sheriffe of the County where the Originall was laid, to giue warning to the plaintiſe to bee ready in Court to proſecute his action againſt the Defendant, if hee haue any thing to charge him withall.

Hereupon, if the plaintiffe doe not declare againſt him the Defendant within a certaine ſpace giuen to him by the Court, Then the Defendant ſhall bee quit of that action; and the plaintiffe is to beginne his ſuite againe if hee will.

But if the partie vtlawed haue any goods or Cattle taken by colour of that Vtlary, Then hee is to ſue out a writ *de non moleſtando*, from the Clerke of the Treaſury, which writ hee is to deliuer

liuer to the Sheriffe; VVhereuppon the Sheriffe is to deliuer to him his goods or Cattell againe without Bond.

But it is otherwiſe where the Defendant doth not bring his Writ *de non moleſtando*. but intends to ouerthrow all by Errour, for in that caſe, hee ſhall bee driuen to enter into Bond for the prooving of the Errour.

In euery caſe where the cauſe goeth with the Plaintiffe vpon a *Demurrer*, and the Debt or matter recouered is not expreſſed, the Iudges of the Court may giue their finall Iudgment, and grant you a Writ to enquire of dammages; which writ ſhall bee directed and deliuered to the Sheriffe, who by vertue thereof, is to impannell a Iurie, who after they be ſworne, vpon Euidence to be produced on the Plaintiffes part, may giue in dammages ſo much as they thinke in their conſciences, and as the VVitneſſes ſhall proone vpon their Oath that he hath ſuſtained.

Alſo in an Action of waſte you are to proceede in like ſort, if you certefie the Iudges how the Defendant hath made the place waſte, and you doe it before Iudgment is by them giuen.

But the Iury needeth not to haue ſuch great care of the dammages in waſte committed, as in other caſes of enquirie in that kind: For whatſoeuer the Iurie giues in dammages therein, the Court will, according to the Statute in that caſe eſpecially prouided, double the ſame dammages.

The

The Plaintiffes Attourney muſt be careſull to looke to the Clerke of the Eſſoynes, and take heede where the Eſſoynes do lye, and whether they be lawfully caſt, or no.

And not onely ſo, but the Attourney for the Plaintiffe or Demãdant muſt farther looke to the Adiournying of the Eſſoynes, & the caſting of the *Nerecipiatur* for the aduantage of his Client.

And the Attourney for the Defendant ſhould alſo be as watchfull ouer the Caſting of the Eſſoynes; For that oftentimes it proues to bee a benefit to himſelfe, and a commodity to his Clyent.

Euery Eſſoyne muſt bee adiourned in time, with ſuch ſufficient continuance as the nature of the Action requireth.

For want of Adiournement of the Eſſoyne, there lyeth a *Non ſuite.*

The caſting of an Eſſoyne where it will not lye, may be diſalowed, quaſhed, and turned into a default: But when it is rightly caſt, then it is allowed, and then it is to be adiourned.

And you muſt farther take heede, where the inferiour Tenant may pray in ayde of the Superiour Lord, and when, and in what caſe a Vowcher lyeth to recouer by force.

If Baſtardy bee alleadged in generall in any caſe, the Proceſſe for the tryall of it is to be directed to the Biſhoppe, who is to certifie the ſame.

The like course is to bee held in *Pleas* of Aduowson, whether *plenaritie* or not *plenaritie* to be so tryed, and so certified likewise.

VVhat *Pleas* Attournies may plead, and what not.

To a Bond for payment of mony.
- 1. *Conditions performed.*
- 2. *Per minas.*
- 3. *Per Dures.*
- 4 *Non est fact.* { *Gen.* / *Speci.*

To the Bill of Debt, plead
- *Per Minas.*
- *Per Dures imprison.*
- *Deins age.*
- *Non est fact.* { *Generall.* / *Speciall.*

To any other Actions of Debt, plead
- *Nihil debet per patriam.*
- *Nil debet per Legem.*
- *Deins age.* (so it be not for *Apparell.*

To a Bond for deliuery of Corne, &c. plead
- *Per Dures.*
- *Per minas.*
- *Non est factum.*
- *Deins age.*
- *Conditions performed.*

The Common issues to *Declarations* grounded vpon *Simple* actions be. — *Per legem*: or, *Per Patriam.*

To a Bond for performance of Couenants vpon an Indenture or an Arbitrin ent may bee pleaded — *Per minas.* *Per dures.* *Non est fact.* or At large. *Non Cul.*

To an Action of Trespasse you may plead — or, At large: if it bee not vpon trial of a Title. *Ex insultu querentis*:

To an Action of Battery plead — or, *Non Cul.*

To an Action for Rent plead — *Rien in arrere.*

To an Action of the Case vpō *Assumpsit* plead — *Non Assumpsit modo & forma.*

To an Action for Slander, &c. — *Non Cul.* or, Iustifie the words.

To an Action for detaining of Corne, or any thing which should haue beene deliuered, and for which there is no Obligation, plead — *Non detinet.* *Non Iniecit.* *Non Cul.*

Vpon *Ejectment.* —

Vpon Account. } *Nunques Receptor pour Account rendre.*

Vpon Administration. } *Plené Administravit.*

Vpon a Demise. *Non demisit.*

All which Pleas before mentioned are generall, & ad oppositum.

THe generall issue in an *Assise*, is, *Nul. Disseisin.* } *Nul. Disseisin.*
Nul. Disseisin

All speciall Pleas here are pleaded vnder the hand of one of the *Sergeants* at Law.

No Attourney or Clerke of any *Prothonotaries* Office shall make vp any Paper booke, whereunto any Sergeants hand is, vnlesse he do first deliuer the same vnto the Defendant to bee perused, to whom hee may giue day to bring in the same Booke againe, that it may be entred in conuenient time; and if the Defendant doe not bring it in accordingly, the Attourney or *Prothonotaries* Clerke, who dea'eth therein for the Plaintiffe, may enter a Iudgment thereupon.

The Plaintiffes Attourney shall do well to request the *Prothonotarie* of the Office to peruse the whole issue drawne into a Paper, before he carry it to his Sergeant, to the end the *Prothonotarie* may see whether it bee well pleaded or no; without

without double matter, or departing from any speciall pleading, and whether it bee truely ioyned or no, according to the truth of the matter or caſe; Or elſe it will be ieopardy and hazzard of the cauſe: For the Iury are bound not onely to finde out according to the iſſue ioyned, and no otherwiſe.

If the Defendants Attourney will ſuffer the Action to go againſt his Clyent by a *Nihil dicit*, He muſt take heede that there bee no part of the debt payd: For if hee do, his Clyent is in his Aduerſaries courteſie for the whole debt, wherein the danger is the more if it be vpon a Bond; For then he is lyable to the penalty and all.

A Title may be tryed vpon an action of *Tranſ. tantum*. But that ſuite doth award no poſſeſſion, but dammages and coſts of ſuite onely.

But it is otherwiſe in *Tranſ.* and *Electione firme*.

If your goods be remaining in another mans hands, and hee doe not vſe them, ſo that there can bee no conuerſion to his owne vſe proued; there an action of *Trouer* will not lye, but an action of *detinew*.

If you doubt, before you appeare for the Defendant, that you ſhall be compelled to plead ſooner then you ſhall be prouided of inſtructions for the purpoſe; It is beſt for you in ſuch extremity to choole the leſſer euill, and to ſuffer an A-

meeciament for not appearing.

Or if it may be had, it were beſt to imparle, *per licentiam interloquendi*, ouer vntill the next Terme.

In the continuing of an iſſue, you for the Plaintiffe muſt take heede you giue not away your benifit to the Defendant, and hee Summon by *Prouiſio vt ſupra.*

If vpon any Triall, at the calling of the Iury, either Attourney ſhall thinke the Iury to bee fauourable, and not indifferently returned by the Sheriffe, or his Miniſters, hee that is aggrieued may deſire to haue it tryed and examined, And, ſo if cauſe bee, the pannell ſhall be quaſhed, and the *Venire facias* ſhall be directed to the *Coroner* of the Shire.

If neede bee, you may except againſt any of the Iury, for that hee is not a ſufficient Freeholder, &c.

And there may be foure of the Iury, ſuch as you hold to be moſt indifferent, choſen by the Iuſtices of the Bench for Tryers, in caſe you ſhall except againſt the Iury.

And if any of the Iury be excepted againſt, or challenged for ſome ſpeciall combination or matter contriued betweene the Sheriffe and them, or the Sheriffes miniſters and them: That ſhall not bee tryed by the Iury of the Pannell, but by them that the Iury will appoynt, or by confeſſion of the Sheriffe, or his Miniſters.

And

And ſuch things as ſhall be alleadged and obiected for matter of fauour to the one party or the other; and the challenge ſhall bee tryed by certaine Tryers of the pannell, *(viz.)* by men that are ſworne, and not challenged vpon their Oathes, and the tryall ſhall bee in this manner following, *(viz.)*

If any principall cauſe of Challenge ſhall bee to any of the Iury, it ſhall not bee made, vntill hee bee called to bee ſworne.

Such cauſe of Challenge may bee, for that hee is a Tenant, a Kinſman, or otherwiſe tyed to bee fauourable more to the one party then the other.

Then ſhall the ſayd Tryers goe together and conſider of the matter, and finde whether hee bee a Tenant, or a Kinſman, or ſo tyed by ſpeciall Bond to the party for whom he is challenged or no.

And the Tryers ſhall finde it either vppon their owne knowledge, or ſufficient proofe, and not otherwiſe.

And the Iury ſhall not ſay, that the partie ſo found is fauourable, but that he is a Tenant or a Kinſman, or ſo, and the Law ſhall iudge and thinke him fauourable.

And ſo for all other principall challenges.

And ſo if the whole Iury bee challenged at the Barre, by the one party, or the other (as ofteptimes they be) they ſhall bee tryed *ſigillatim*,

tim, and other Tryers be called forth to try the former ones, in their turne; and ſo to proceede *viciſſim*, till they be all tryed.

The manner how to proceed in the Tryall of the iſſue.

THe Plaintiffes Attourney ſhall doe well to haue the whole Record, and Rules thereunto belonging in readineſſe, with all things pertinent therevnto, which hee muſt get to be read and receited vnto the Iury, And for the eaſe of the Iury, the iſſue whereof they are to enquire, muſt be truely and plainely deliuered vnto them.

And after this is ſo read, and deliuered (as aforeſaid) the Plaintiffes Attourney may write in a paper the iſſue, and giue it to the Iury, that they may know what they are to enquire of; prouided, hee giue it to them before they depart from the Barre.

After the Record is read, the Counſaile are to ſay what they can for their Clyents, ſeuerally and reſpectiuely,

Then the Witneſſes in the matter are to be produced, ſworne, and examined at the Barre, what they can ſay to the queſtion in iſſue.

And

And when the Iury hath heard both parties, and the opinion of the Court (if it neede, for explanation of matter of Law) they are then to depart from the Barre, and the Court appoints and ſweares one of purpoſe, that he ſhall ſafely keepe the ſaid Iury, ſo that none of them ſhall depart from the other till they bee agreed: and that no other perſon who is not of the ſayd Iury, ſhall in the meane time ſpeake with any of them, nor come among them, vnleſſe it ſhall bee ſuch an one as the Court ſhall appoynt to reade the Euidences to the Iury, in caſe where none of them can read themſelues.

If the verdict paſſe with you, you are to pray Iudgment, returne your *Poſtea*, to make vp a Bill of the coſts and charges of your Clyent expended in this cauſe, to carry your ſaid Bl to the *Prothonotarie*, in whoſe Office the cauſe is entred, to aſſeſſe your ſaid coſts and expences, which beeing done, you take out what execution you pleaſe preſently, Or otherwiſe vtlaw the Defendant vpon that Iudgment, as you ſhall be aduiſed.

Instructions to sue forth a Recouery.

IN a *Recouery* in a VVrit of *Entry* in the *Post*, the Attourney who sueth it forth, must take good aduice in the drawing of his VVrit of *Entry*, he is to carry it to the *Chancery* man to make it.

And the Attourney must take with him, either his Clyent, or some other person who knoweth the Land, and get him sworne before one of the Masters of the *Chancery* for the true value of the Land, and what it is worth by the yeare.

Then must the value be set down on the backside of the VVrit, and the name of the Master of the *Chancery*, who tooke the Oath thereunto.

Next, this Attourney must carry it to the Kings Attourneys Clerke, who is appoynted for the same purpose to get his Masters hand vnto it.

But before you haue your VVrit againe from hence, your Clyent, or some other for him, must enter into a Recognizance to the King in such manner, as Master Attourney Generall his Clerke shall draw vp and make for you, And the said Clerke is to carry your Clyant, or other partie, who is so to enter into Recognizance to the Court of *Common-pleas*, to acknowledge the same before the Iudges there.

The

The effect and condition of the ſaid Recognizance is, that thoſe Lands ſpecified in the VVrit, are not holden in *Capite*, and that the Recouery is not hurtfull to his Maieſty, nor his ſucceſſors.

And if the Lands bee holden in *Capite*, you muſt take courſe before you ſue out your VVrit of *Entry* for, licenſe in that behalfe; otherwiſe you ſhall runne into a great inconuenience, and be forced afterwards to ſue out your Pardon in this behalfe.

After your writ of *Entry* is paſſed through the Kings Attournies hand, then if the Tenants of the Land will appeare in proper perſon, Your VVrit of *Entry* with the Returne thereof, muſt be taken out into one of the *Prothonotaries* Remembrances, where you will haue your Recouery entred.

And then in the Margent of the Remembrance make the appearance of him who is vouched.

And this being done, deliuer your writ to one Sergeant, and the Remembrance to another, when the Court is at good and fitting leaſure.

Note withall, that if this bee done with a *ſingle Vowcher*, you are to retaine three Sergeants; and if it bee to bee done with a *Double Vowcher*, you are to retayne fiue Sergeants.

And when it is acknowledged, then you are to giue the VVrit of *Entry* to the Cerke of the

Office that ſhall enter it, and he will thereupon enter your Recouerie, and make you an Exemplification, & a Writ of *Seiſin* in the ſame terme.

But if the Tenants do not appeare in proper perſon at the Barre but by Attourney, then you ſhall not get your VVrit of Recouery to be fully finiſhed the firſt Terme; but you muſt haue a *Summ.* entred againſt the Tenants, and a Writ of *Seiſin* awarded.

And it behoueth the attourney for the Demandant to bee circumſpect, both for the Returne of the VVrit of *Entry* and *Seiſin*, and for the filling of them, as alſo for the Warrants of attourney on both ſides, For otherwiſe by default or omiſſion in any of them, the Recouery may bee ouerthrowne againe.

And for farther and more aſſurance in this kinde, it hath beene therefore vſed, that they haue exemplified both the writ of *Entry* and *Seiſin*, with the Returnes thereof; and the Warrants of attourney, for feare leaſt afterwards any of them ſhould be mis-filed or mis-carryed.

And if you would ſearch for any Recouery acknowledged long before, you muſt firſt finde it with the Clerke of the Warrants.

The

The order to sue forth a Fyne.

FIrst draw the *Precipe* in sheetes of Paper, and Engrosse the Concord in Parchment: Then get your writ of Couenant made vp, by the *Cursitor* of the Sheire where the Land lyeth, according to Concord.

And if the Knowledge be to be taken by speciall *Dedimus potestatem*, then you must deliuer to the *Cursitor* the Commissioners names that are to take the Knowledge; Of which Commissioners one must bee a Knight, and the *Cursitor* is to make vp the *Dedimus potestatem* by the Concord, &c.

Then get your Writ sealed, and deliuer it to the Commissioners, with the *Concord* ingrossed in Parchment, with Seales and Waxe vnto it.

And when your Commissioners haue taken the Knowledge, they are to returne the Writ of *Dedimus potestatem* thus, (*viz.*)

Executio istius Commissionis patet in quadam Schedula huic annex.

And file the *Concord* vnto the backe-side of the *Dedimus potestatem*; and the Commissioners are to set their hands and Seales to the *Concord*, and their hands to the *Dedimus*, &c.

You shall then proceede with your Writ of Couenant in manner following.

FIrst, you are to goe to the Office, sometimes called, My Lord of *Leicesters* Office in the Inner Temple, because my Lord of *Leicester* had the first grant thereof: and there to compound for the value of the Land, either by Composition, or *Affedauit* to bee made before a Doctor who doth attend for the same purpose.

The Fine being set downe by the Officers here, you are to pay it presently to the Receiuer.

Then will the proper Officers of that Office set their hands to the back-side of the VVrit.

Then you must returne your VVrit of Couenant in this manner *(viz.)*

At the vpper end of the VVrit,
Pleg. de prosequend.
Ioh. Doo.
Ric. Roo.

In the middle,
Summ.
Ioh. Den.
Ric. Fen.

At the lower end,
I. M. miles vic. id est, the Sherifs name of the Shire.

Then

THen carry your Writ of Couenant, *Dedimus poteſtatem*, and Records, to the *Cuſtos breuium* his Office, and there deliuer them to the Clerke, who is for the Shire where the Lands doe lye; and he will take out into Paper what belongs to him to doe, and indorſe the Writ, ſetting downe when the Proclamation ſhalbe made.

Then you muſt carry the VVrit of Couenant, *Dedimus poteſtatem*, and Concord vnto the Clerk of the Kings ſiluer, where hee will diſpatch what appertaines to his Office; and where, what you muſt pay, and for what, ſhall appeare in the Calender of Fees hereafter in theſe preſent contained.

And then take and carry all to the *Chirographers*, or the *Cirrographers* (as it is corruptly ſtiled,) and deliuer it to him who is Clerke for the Shire where the Land lyeth, and he will hereupon make the Indentures of Fyne; For which the Fee ſhall appeare hereafter in his place.

Here note, that the *Dedimus poteſtatem* and the VVrit of Couenant, muſt agree in Names, Acres, and place.

And if the Knowledge bee taken before one of the Iuſtices of Aſſize in the Countrey, then the Iudge ſets his hand to the value of the Lands, vpon Oath taken before him, but it is written in Paper.

And when you come to paſſe your Fyne in

my

my Lord of *Leiceſters* Office, ſo called (as I ſaid before) becauſe vppon the new erection of it in the dayes of the late good Queene *Elizabeth*, it was conferred vpon him, and was deuiſed & prouided chiefely to take notice of Alienations, being the proiect of one Mr. *Sutton* of *Lincolnes Inne* (as I take it.) Then you muſt borrow that Paper of the Iudge of Aſſize before mentioned, to ſhew it vnto the Officers here; Or elſe you ſhalbe compelled to compound anew for the value of the Lands, &c.

But if the Knowledge be made in open Court, then you muſt haue the *Precipe* in Parchment, which muſt bee annexed to the Writ of Couenant, and you muſt deliuer it vnto the Sergeant at Barre to draw; for which, his Fee ſhall bee ſet downe hereafter: and this you may do before you pay your Fine, by which Knowledging, you ſaue your Clyent a good part of his charge.

And if it bee Knowledged before my Lord chiefe Iuſtice of the *Common Pleas* in his Chamber, or in any other place ſauing in the Court; then one of his Clerkes will make your *Precipe* & Concord, and write them in Parchment, whereunto he will get my Lords hand.

And then you are to conſute the Writ of Couenant to the Concord, and ſo paſſe it through my Lord of *Leiceſters* Office, the *Cuſtos rotulorum*, the *Kings Siluer*, and the *Chirographer*, as is before ſet downe.

Note

Note alſo(as I gaue you to vnderſtand before in part) that if the Lands bee holden *in Capite* of the King, then you muſt ſue forth your Licenſe of *Alienation* for your eſtabling in that behalfe: For if you enter into the Lands without Licenſe, the King will haue a Writ of *Intruſion* againſt you for the ſame, aud ſo receiue al the maine profits thereof likewiſe, vntil you haue ſued forth your pardon heerein, which will bee a matter of much charge, &c.

How your Licence of Alienation *muſt be ſued out.*

FIrſt, you muſt get him who is proper Clerke for the Licences of *Alienation*, to make your *Dockquet*, or, as it is corruptly writ, ten your *Dogget*, in paper, which you are to carrie to the Office called my Lord of *Leiceſters* Office, or Office for *Alienations*.

At this Office, you muſt compound for the value of the Land, either by Commiſſion or *Affedauit*, and you muſt pay the third part of the value ſeſſed, for a Fine, and that preſently after the Maſter of the *Chancery*, or Doctor who attendeth for that purpoſe, hath ſet his hand to the *Dockquet*, the fee for which hand, expect anon.

This being done, your Writ is to bee entred there in the ſame Office.

And then two Clerkes of the Office, to whom it doth appertaine of property, wil set their hands to the *Dockquet*, and will afterwards make your Licence of *Alienation*, and get it sealed for you, the seuerall Fees of which seuerall passages, I reserue for their proper Station, &c.

Note that the *Post-fine* of euery Fine knowledged, is as much as you pay in the *Chancery*, & halfe as much more, and if it be to be leuied by the Sheriffe of the Shire, where the Land lyeth, which did passe by the Fine after Proclamations which is the yeere after the fine is leuied.

The Causes whereupon Wager of Law lyeth.

IF any man bee sued vpon a simple Contract.

as,

Vpon Booke:
Vpon *Emisset*, or *Emisit*.
Vpon *Mutuatis*, or *Mutauit*.
Vpon *Conuessit soluere*, or *Assumpsit oluere*:
Vpon an *Insimul computauerunt*.
Vpon a *Detinet*.
Vpon a *Trouer*.

Vpon

Vpon Debt, being not by Obligation of Bill ſigned and ſealed.

In euery of theſe, the Defendant may wage his Law, that is, Hee may diſpoſe that hee oweth the Plaintiffe nothing, and ſo auoyd his ſuite.

Wager of Law is to be done in this wiſe, (*viz.*) that he plead, *Nil debit per legem.*

And ſo hee is to get day ouer vntill the next Terme to do his Law, Or elſe he may do his Law preſently at his owne election.

But if he deferre the doing of his Law, vntill an other Terme; He the Defendant muſt haue a care to come in at his day, and do his Law.

Or if it ſo happen, that hee cannot come in at the time and place appoynted, His Attourney muſt remember the time when his Clyent was to do his Law, and vpon the ſame day to caſt an *Eſſoyne* for him, or elſe the Plaintiffe will haue Iudgment againſt him by default.

And if the Deſendants Attourney do ſo caſt the *Eſſoyne*, then the Plaintiffes Attourney is to adiourne it, which if hee neglect to do, the Deſendants Attourney may call the Plaintiffe *Nonſuit.*

But if the Plaintiffe doth Adiourne it, then the Defendant is to doe his Law peremptorilie at the day giuen him; or elſe Iudgment ſhal be awarded againſt him by his owne default.

And in caſe where the Attourney for the Defendant doth not caſt his *Eſſoyne*, at the day, for

the benefite of his Clyent, and his Clyent is not readie to doe his Law: Then the Attourney for the Plaintiffe may enter a *Ne recipiatur*, with the Clerke of the *Essoynes*, and giue him day in Court to doe his Law very speedilie, (*viz.*) within three or foure dayes after, and vpon the Defendants default then, the Plaintiffes Attourney may enter a Iudgement against the Defendant.

Then is the Plaintiffes Attourney to make a Bill of his Clyents charges, & get it rated and allowed by the *Prothonotarie*; which done, he may make forth Execution against the Defendant, in what sort he shall thinke it best.

When the Defendant commeth in to doe his Law, He is to bring in some of his neighbours, or acquaintance, to depose with him in manner following: (*viz.*)

Euery of them must make Oath that he beleeueth, that the Oath which the Defendant taketh and deposeth is true: (He the Defendant deposing before them, that he oweth no such debt to the Plaintiffe, as the Plaintiffe declareth for, nor any part thereof.

And the Defendant should bring with him twelue such neighbours, or acquaintance, compurgators with him, who should all depose in like manner (as aforesaid.)

But there is an Officer here for the case of the subiect, who will furnish the Defendant in this

case

caſe of Wager of Law, with twelue ſuch Compurgators as occaſion ſhall require, for with a leſſe number you cannot wage your Law, &c.

VVhen the Defendant hath his ſaid full number of twelue: then his Attourney is to get the *Prothonotarie* to take his VVager of Law.

Then will the Cryer of the Court cauſe the Defendant to ſtand vp at the Barre; and the Iuſtices will examine him, whether he oweth or deteineth the money, or goods, or Chattels, contained in the Declaration, or any part or parcell of the ſame; wherevnto the Defendant is to anſwer yea or no.

And if the Defendant depoſeth that hee doth not owe or deteine from him the Plaintiffe the ſame, nor any part or parcell thereof, and the Plaintiffe will ſtand to his action, then is the Defendant quit thereof for euer, and the Plaintiffe loſeth his action.

But if the Plaintiffe will not abide his Oath, intending to charge him otherwiſe afterwards: The Plaintiffe may bee *Non ſuit*, pay the Defendant his Coſts, and bee at libertie to begin anew againe at another time, and to lay his action ſo (in ſome caſes) that no VVager of Law ſhall lye therein.

Note farther, that a man may wage his Law in diuerſe Reall actions:

As,

In Formedowne; or, Formedon,

Indeſcender, Remainder, or Reuerter.
Waſte;
Warrant ch.
Donat: or
Any Action where Summons lyeth.

For if the Sheriffe returne that hee hath ſummoned, where he hath not ſummoned, whereupon a *Grand Cape* is awarded; Then, and in ſuch caſe may the Defendant come in and wage his Law that he was not ſummoned, and ſo auoide the *Grand Cap.*

The order to ſue forth a Niſi prius extra.

IF the matter be pleaded to an iſſue, ſo that it is to be tryed by *Niſi prius* in London, or in the Countrey: Then muſt the Plaintiffes Attourney, after iſſue is ioyned, ſee the ſame well entred, and examined by the *Prothonotarie.*

Then carry the Paper Booke to the Clerke of the *Niſi prius*; and he or ſome Clerke of his is to make vp the Record.

Then let your *Protonotaries* Clerke make forth your *Venire facias*; which, after it is ſealed, you muſt carry to the Sheriffe of the Shire where the iſſue is ioyned, And cauſe him to returne your Iury.

When you haue your Iury, you are to carry it to

to the Clerke of the Iuries, that he may thereuppon make your *Hab. Corp.* or *Diſtringas*, which you are to deliuer to the Sheriffe. Then will he returne it, And make your warrant to warne the Iury, &c.

Then you muſt take your *Hab. Corp*, and the Iuries names beeing filed to the backſide of the Writ, and *Niſi prius*; And deliuer them all together to the Clerke of the Aſſizes, who if you doe therefore giue him ſomething more then the Ordinarie Fees, will cull the Iury at ſuch time as you ſhall appoint him; Or otherwiſe you may ſtay long enough.

Aboue all things, be ſure that you inſtruct your Counſell ſufficiently in ſuch things as make moſt to proue the iſſue on your party.

And haue your Witneſſe or other proofes in a readineſſe.

If you try your matter in *London*, Then the *Poſtea* commeth in on the morrow after the tryall, And Iudgement is giuen preſently vppon the ſame.

But if the Tryall be in the Countrey at the Aſſizes, Then the *Poſtea* commeth not in till the next Terme following: And then you are to call for your *Poſtea*, & therevpon to ſee that your Iudgement be well entred, &c. (*vt ſupra.*)

Super-

Superſedeas de non Moleſtando.

THis VVrit *de Non Moleſtando*, is to preuent, or free the bodie or goods of a partie vtlawed from Arreſt: and it is ſued out, to the ende the partie vtlawed may haue ſecuritie and ſafetie thereby, in bodie and goods, in the meane time while hee is in reuerſing of the *Vtlary*, whereby to bee finally diſcharged of that euill.

If the Plaintiffe haue tooke out Proceſſe of *Vtlary*, and thereby arreſted the Defendants goods or bodie: This VVrit doth diſcharge them both, or either of them; and if the Sheriffe haue not already made ſale of the goods, and before the Returne of the *Cap. Vtlagat.* vpon the deliuerie of this VVrit *de non. Moleſtand.* hee muſt returne them againe.

And if the defendant doe bring his ſaid VVrit to the Sheriffe, after the returne of the *Cap. Vtlagat.* is paſt, it is then too late, and then the Sheriffe may chooſe whether he will reſtore the goods againe, or returne them, or the value of them, which muſt be appraiſed by men indifferent, for the Kings Maieſties beſt behoofe.

And in caſe after the Sheriffe hath ſo taken the goods by *Cap. Vtlagat.* and vppon bringing of

of the Writ *de non moleſtand.* ſhall deliuer back to the Defendant his ſaid goods, he the ſaid Sheriffe is thereupon for his *Indempunity* to take bond of the Defendant with ſureties, that if he proue not Errour in the matter, the ſaid goods ſhall not bee made away, but be in readines and forthcomming at all times, and returned, if the Sheriffe ſhall bee compelled to reſtore and anſwere them againe.

But if the Defendant ſueth forth his Writ *de non moleſtando*, & haue it in a readines about him before that the Sheriffe doth attach his body or goods vpon the Vtlary, then the Sheriffe vppon ſight thereof may not meddle with his body or goods in any wiſe. And ſo much ſhall ſuffice for the VVrit *de non moleſtando*, &c.

Note, that all Actions of the *Caſe*, *Debt*, or *Battery* may be layd in what Country you pleaſe, But *Tranſ. Ejectment* and *Waſte* be locall.

The Charge of proceeding in euery ſeue-rall Caſe, and vpon euery ſeuerall Proceſſe now followeth

The Charge of the Original Writ.

FIrſt, for euery Originall Writ of the *Common Pleas*, being a ſingle Writ.

	l.	s.	d.
In *Debt*, *Trauſ. &c.* } *Per piece*,	0	1	4
Inde Poſt diem,	0	0	4
Item, for the double Original Writ of thoſe kindes,	0	1	6
Item, *Poſt diem*,	0	0	4
Item, for a fine, vpon euery Originall Writ as followeth *(viz.)*			
If the Original exceed forty pounds, it paieth to the *Cur-ſitor*.	0	0	8
If the Originall be a hundred pounds, it payes Fine.	0	10	0
And ſo from aboue forty pound in *infinitum*, the like proportionable Fine.	*with the firſt proportionably.*		

Item

	l.	s.	d.
Item, for all Originall VVrits, beſides the ordinary ones of *debt, tranſ. Inſult.* and the other twelue pēny writs, you ſhal pay Fee for making of them, as before is ſet down in the *Chancery*.	Vide *the charge of Originall writs in Chancery.*		
Item, the Cōmon *Proces* vpon the Originall of *debt, tranſ.* &c.		0	6
Item, the Seale of the common *Proceſſe*,		0	7
Item, the Common *Proceſſe*, vpon an Action of the *Caſe*, and other Actions of higher nature being moſt of them Reall, and not within the number of thoſe which pay but twelue pence for the Original.		1	0
Item, the Seale		0	7

The ordinary charge to ſue an Vtlary *in a ſingle writ.*

IN primis, The Originall and *poſt diem*	0	1	4
Item, the *Capias* and *Seale*,	0	1	5
Item, poſt diem.	0	0	4
Item, the *Alias Capias*, and *Seale*, with the *Poſt Diem.*	0	1	5

	l.	s.	d.
Item, the Attournies Fee.	0	3	4
Item, the *Plur. Cap.* and Seale	0	1	1
Item, the VVarant of Attourny.	0	0	4
Item, the exigent and Seale.	0	1	6
Item, the Proclomation and Seale.	0	1	1
Item, the returne of the *Exigent* for euery name.	0	1	0
Item, for fyling the *Exigent* and *Proclamation*.	0	0	8
Item, if it be with a *Post termi-num*, the fyling of the *Exigent* wil coſt	0	1	6
Item, the Attourneys fee.	0	3	4
Item, a generall *Capias vtlagat.* and the ſeale thereof.	0	0	11
Item, a ſpeciall *Cap. vtlagat.* and the ſeale thereof	0	0	4
Item, the Attournies Fee.	0	3	4

The charges of a Niſi prius *in* Guild-Hall *in* London, *taken by default.*

IN *Primis*, The *Venire facias*.	0	2	7
Item, the Returne thereof.	0	1	0
Item, the *Poſt diem* of the ſame	0	0	4
Item, the *Hab. Corp.* and the Seale	0	1	11
Item, the Returne of it.	0	2	4

Item,

	l.	s.	d.
Item, the Sergeant for warning of the Iurie	0	3	4
For the Copie of the iſſue.	0	1	0
For the Seale of the *Niſi prius*.	0	2	2
The Lord chiefe Iuſtices Fee for entring the Record into his Booke.	0	11	9
For the Reading of the Record.	0	1	0
For the Default.	0	2	4
For the Greene cloth.	0	1	0
For the keeper of the Hall.	0	1	0
For a *Tales* if the Iury fill not.	0	4	4
To the Iury *per* piece, beeing of the number in the *Hab. Corp.*	0	0	8
To the reſt that come in by *Tales per piece*.	0	0	4
Item, my Lords Foot cloth ſeruant.	0	1	0
Item, to the Sergeant for keeping of the Iury.	0	1	0
Item, for the Barre-keeper.	0	1	0
Item, to the Cryer	0	1	0
For euery witneſſe ſworne *per* piece.	0	0	4
Item, the Attourneys Fee.	0	3	4
Item, for your Counſels Fee. *at leaſt.*	10. s.		

The charge of a Nisi prius in the Countrey.

	l.	s.	d.
IN *primis*, the *ven. fac.*	0	2	7
The returne thereof,	*vt supra.*		
The *Post Diem*,	*vt supra.*		
The *Habeas Corpora* and Seale,	*vt supra.*		
The Returne of it,	*vt supra.*		
The Bayliffes for warning the Iury,	*vt supra.*		
For sealing the Record of *Ni. prius*,	*vt supra.*		
The putting in the Record at Assizes.	0	15	1
Item, your Counsellers Fee, The Attourneys Fee,	*vt supra.*		
Where note, that if the Attourney, who is named Attourney vpon the Record, followeth the businesse, you shall saue 4. shillings foure pence. But if you vse any other, you shall pay the more	0	4	4
Item, All other things, as Iury, The Bayliffe who keeps the Iury, Cryer, and all other, generall and for the most part.	0	*vt supra.*	

Fees

Fees belonging to the Prothonotaries, *and their Clerkes.*

	l.	s.	d.
IN primis, for euery common Declaration, not exceeding the number of twentie lynes in the Roll, And the Roll vnder the number of 700.	0	1	0
Where the Originall and *Capias* are double, the Fees generally vppon the same proceeding, bee likewise double here.	*duplex f. od.*		
Declaration vppon account.	0	2	0
Entring of an issue vpon a *per dures imprisonement, nunques* Executor, or *plene administravit.*	0	2	4
Also for the Declaration, and for the Iudgement, *similiter*	*similiter.*		
Nunques Receptor pour account rendre. Pro Q. & Defen.	0	4	2
Fee of the Defendant for euery common issue.	0	1	0
Fee of the Plaintiffe for Conditions performed, wherein there is no Reioynder.	0	3	8
Of the Defendant for his part, except the Bond bee the longer, but	0	2	0

Item,

	l.	s.	d.
Item, for euery Declaration, if it be but twenty lines.	0	1	4
Item, for euery sheete more, if it be aboue twenty lines.	0	0	4 *le sheete.*
To the Clarke for coppying of the Pleas, and titling for euerie sheete.	0	0	4 *for euery sheete, inde.*
The *Imparlance Cop.*	0	1	0
To the *Prothonotary* for euery *Imparlance.*	0	1	0
For the entring of the Condition.	0	1	0
In Reall actions, for the Copy of euery sheete.	0	0	8 *le sheete.*
Entring of *Non assumpsit* for the Defendant.	0	2	0
For the Plaintiffe, *similiter.*	0	2	0
For euery Replication.	0	0	4
For euery Reioynder.	0	0	8
For Entring of euery Bayle	0	2	0
For Entring of *Nihil dicit.*	0	2	4
For the Copy of the same.	0	0	8
If the same containe more then a Roll: Then you pay after the Rate of 6. s. 8. d. for euerie Roll more.	0	6	8 *Euery Roll more.*
For euery Iudgement and Satisfaction in Actions Reall.	0	4	0
To the *Prothonotarie* for Single *Voucher.*	0	11	6

To

	l.	s.	d.
To the Clerke for Entring and Exemplifying, *inde*,	0	4	0
The *Prothonotaries* allowance to the Clerke, *inde*,	0	1	6
For writing and examining of euery exemplification in Writs of Entry vpon *Vowcher* or confession, if it be a double *Vowcher*.	0	5	0
To the *Prothonotarie*.	0	14	6
The *Prothonotarie* allowes to the Clerke, *inde*,	0	2	6
To the Clerke for Entring of euery Roll.	0	0	4
To the *Prothonotarie* for entring of a Summons.	0	4	6
For the Searching of any of the old *Dockquets* for euery Terme.	0	0	4
To the *Prothonotarie* for a Treble *Vowcher*.	0	18	6
To the Clerke for entring and exemplifying, *inde*,	0	6	0

Fees belonging to the Phillozers *of the* Common-pleas.

	l.	s.	d.
IN primis, for euery *Cup.* vpon *Diſtreſſe*, and in Debt, Detinew, Accompt, and Treſpaſſe, of Common Proceſſe.	0	0	6
For ſigning thereof.	0	0	4
Item, for euery *Capias Pone*, or *Capias* and *Diſtreſſe* in the common Writ of the ſaid Action.	0	0	6
For ſigning thereof.	0	0	4
Item, if any ſuch VVrit bee of the number of ſixe names.	0	1	0
Item, for a *Capias Pone*, & *Diſtreſſe*. Sur. Couenant, Annuitie, of Action vpon the Statute, &c. Beſides the Seale.	0	1	0
Item, for euery *Exigent* vppon the Statute, and vpon the Caſe.	0	1	0
Item, for the Deliuery of a Record.	0	0	4
Item, if any the aforeſaid Writs bee longer then is vſuall, by reaſon of the number of names, or matter contained in them: Then you are to pay therefore accordingly, and ratably.	*Ratably.*		

Fees of the Office of Custos Breuium.

	l.	s.	d.
Inprimis, for Search of euerie Terme.	0	0	5
Item, for the Copy of the VVrit.	0	0	4
Item, for the single bundle.	0	0	1
Item, for the Fyling of an *Exigent*, if it bee without a *Post terminum*.	0	1	8
Item, for the fyling of any Sheriffes bundle of VVrits, so that they come in within three or foure dayes after the first Returne of the Terme.	0	0	4

Note, that by reason of the manifold inconueniences, and abuses, which did grow by occasion of the putting in, and receiuing of Writs here after the day; It was ordered and directed by the Court, That no *Originall* VVrit, or *Plur. Cap.* shall bee put in, or receiued the last day of the Returne, *inde*.

Item, the Bagge-bearer of the *Custos breuium*, ought to bring in the bundles of VVrits of the Terme past, on the first day of the Terme following, to bee seene, perused, and vsed by such as haue authoritie to doe it, and that without paying of any thing for the same.

Dueties and Fees belonging to the Treasurie-house.

	l.	s.	d.
Inprimis, for a Search, when you bring with you the Terme and Number Roll, And if it bee in the Terme time, or before the Doore is shut vp.	0	0	4 *euery search.*
And if you come to search in the Vacation, after the Doore is shut vp, Then you pay to the Keeper of the same house for opening the Doore.	0	2	0
And if you search any of the old Termes, Then you must pay for euery of the said Termes which you doe so search.	0	4	0
Item, the Officers and Attourneys ought to search and see the *Essoines* Rolles and old Termes in the Treasurie, for their better information and direction in their owne businesse, without paying any Fee at all.	*No Fee in priuiledge.*		
Item, for a *Supersedeas*, vppon *Main prise*, which should bee taken (the Defendant beeing present in person:)	0	2	0

Item,

	l.	s.	d.
Item, a Bill of Baile thereupon:	0	0	4
Item, for writing, examinatiõn, and certifying *inde*,	0	12	1
Item, for Fees of Reu. of Pardon vpon an Vtlary.	0	6	2
For the certifying of the Record *inde*,	0	2	1
Item, for the Warden of the Fleete *inde*,	0	2	4
Item, for the Clerks paines	0	1	8
Item, the *Siri facias inde*	0	0	6
Item, the bill of bayle,	0	0	4
Item, for euery *Nisi prius*, so that it exceede not three Sheets.	0	2	0
For euery Sheete aboue three,	0	0	4
For the Seale	0	*vt supra.*	

Fees of the Clerke of the Essoynes *follow.*

	l.	s.	d.
INprimis for Enroling of euery *Essoyne.*	0	0	6
For euery *Idem dies.*	0	0	4
For euery Adiournment,	0	0	4
For euery Bill of Exception,	0	0	6
For euery *Ne Recipiatur*	0	0	6

	l.	s.	d.
For euery *Superſedeas* made by the Clerke of the Treaſurie,	0	2	4
For euery Copy thereof:	0	0	8
If any Roll be ſpoiled by any of the *Prothonotaries* Clerke, or any other Clerk that doth enter any roles, then the party that ſo ſpoileth thē, may go to the Office, & get a new one, paying for the ſame.	0	1	0 *a Roll.*
Item, of the Lord cheife Iuſtice for making and binding of euery Terme, for his Fee *inde*	0	13	4

The Cryers Fees.

	l.	s.	d.
IN primis, for euery verdict or *Non ſuite* in the Court,	0	0	4
For euery Fine knowledged at the Barre,	0	0	8
For calliug, keeping, and ſwearing of the Iury:	0	0	4
For euery wager of Law,	0	0	8
For euery Recouerie at the Barre.	0	1	0
Item, he ought to haue of euery Attourney of the ſame Court at the end of euery Terme, which he well deſerueth,	0	0	4 *of euery Attourney.*

The

The charge of the reuerſing of an Vtlary followeth.

	l.	s.	d.
Inprimis, to the *Exigenter* for the Terme and number Roll,	0	1	4
For a Warrant to enter the Attourney.	0	1	4
For entring of the *Vtlary*.	0	6	8
To the Clerke that enters it for his paynes	0	1	6
For the Pardon,	2	0	0
For the *Superſedeas*,	0	3	0
For the *Scire facias*, and the Returne *inde*,	0	2	4
The Attourneys Fee.	0	3	4
Summe	3	0	2

Fees belonging to the Clarke of the Vtlaries follow.

	l.	s.	d.
Inprimis, for ſearch of euery Terme,	0	0	4
Item, a generall *Capias Vtlagat.*	0	0	10
Item, for a Speciall *Capias Vtlagatum*,	0	2	4

Item,

	l.	s.	d.
Item, the *Certiorare* vpon an *Vtl.*	o	2	o
For a Coppy and fine,	o	o	10

And for your direction Note, That if you would cause an *Vtlary* to be certified, which is in the Sheriffes hands: For that the parties are agreed, you must first get a true Copy of the *Exigent*, which you must bring to the Clerke of the *Vtlaries*, and request him to make you a *Certiorare* thereby, directed vnto the Sheriffe of the Shire, where the Defendant is vtlawed, This you are to deliuer vnto the Sheriffe, and hee thereupon must certifie and returne it ouer of force, though the Plaintiffe do not with-draw the *Exigent*.

The charges of trauersing of an Vtlary, *and Pardon vpon the same, whereupon you are to proceede in this and other Courts accommodatelie.*

	l.	s.	d.
IN primis, the Search of the Number Roll.	o	o	4
Item, the *Certiorare* out of the *Chancery* to remoue the Record.	o	2	6

Item,

	l.	s.	d.
Item, the Clerke of the Treasury of this Court, for remouing of the Record.	0	14	1
Item, for drawing of the Pardon,	0	3	4
Item, for ingrosing of the pardon,	0	6	8
Item, for examining of it.	0	1	0
Item, for inroling of it in the *Chancery*	0	3	4
Item, for the great Seale.	1	0	6
Item, for the first *Sciri fac.*	0	2	6
Item, the Returne thereof.	0	2	0
Item for enuring of the *Vtlary*.	0	0	8
Item, to one of the *Prothonotaries* for allowance of the pardon,	0	2	4
Item, the *Post Diem* of the first *Sciri facias*.	0	0	4
Item, the copy of the Entry.	0	1	0
Item, to the Clerke of the *Vtlaries* for discharging of the same.	0	2	0
Item, the *Supersedeas de non molestando*.	0	2	6
Item, for the Attournies Fee,	0	3	4
Summe	3	6	4

The charges of a Recouerie at the Barre.

	l.	s.	d.
Inprimis, the writ of Entry,	0	2	6
For entring of the writ of entry in the alienatiõ office	0	0	4
To the Doctor or him that doth atend for the cõpoſition.	0	0	4
For indorſing of the writ.	0	0	6
For filing of the ſame,	0	1	0
For fine thereof, according to the value made by depoſition of the party.	*As in the Table following hereafter.*		
To the Receiuer.	0	0	6
For the Returne thereof.	0	2	0
To Maſter Attourney Generall for ſigning of the writ.	0	10	0
To the Secondary for making the remembrance.	0	2	0
For a Single *Vowcher* to three Sergeants.	0	10	0
For a Double *Vowcher* to foure Sergeants.	0	13	4

If there be not so many Sergeants, at the Barre, at the time of the knowledging of the recouery, whether with single or double *Voucher*, as there ought to be, The over-*plus* of the Sergeants due is to bee deliuered to the Puisne one. — *To the Puisne le surplusage.*

	l.	s.	d.
Iustice to the Poores Box	0	0	6
Pro Iustic. Iuniorib.	0	2	0
The Common *Voucher.*	0	0	4
To the Cryer.	0	1	0
To the Keeper.	0	0	6
To the *Prothonotaries* for entring a Single *Voucher.*	0	14	6
To the clerke for exemplifying of the same.	0	5	0
For the Seale of the Recouery in greene Wax.	0	2	2
The Writ of *Seisin* and Seale,	0	1	1
The Returne of the *Post Diem* thereof.	0	2	0
The Warrant of Attourney.	0	0	8
The Attournies Fee	0	3	4

And if there bee a writ of Summons awarded, for that the Recouery cannot bee perfected in one Terme, the Attourney may demand another Fee, very reasonably and iustificably. — Double Fee, *pro Attornato.*

For taking of *Affedauit*, *pro valore terr.*	0	0	4
For the Writ of Summons	0	2	0
For the Returne and *Poſt diem.*	0	2	4
Summe total. beſides the Fines	3	6	0

The Fines follow, *Secundum ratum & Conſuetudinem.*

Valew of

Land, l.	s.	d.	*Payeth*	*Rate*, l.	s.	d.
3	6	8		0	6	8
5	6	8		0	10	0
7	13	4		0	13	0
8	13	4		0	16	8
11	0	0		1	0	0
12	0	0		1	3	4
14	6	0		1	6	8
15	5	8		1	10	0
17	13	4		1	13	4
18	13	4		1	16	8
20	0	0		2	0	0
22	0	0		2	3	4
24	6	8		2	6	8

The Land of yearely valne of

And ſo proportionably, and according to the ſaid Rates.

The

The Charges of a Fine, with licenſe of Alienation, followeth.

	l.	s.	d.
Inprimis, for making of the *Dockquet*,	0	1	0
For ſigning of the *Dockquet*,	0	2	0
For entring the Fine,	0	0	6

Note that

The Fine for Alienation, is the third part of the yearely profits of the Lands ſet downe by the Officers in the *Dockquet*, — *Fine third part Valoris terr.*

For making of the Licenſe, and for ſealing of it,	2	0	0
For entring of the compoſition.	0	0	6
The Writ of Couenant.	0	2	6

The Fine in the Writ of Couenant, is the tenth part of the Value, as it is ſet downe by the Officers — *Fine bre. Couenant tenth part valoris terr.*

To the *Cuſtos brevium*.	0	2	8
For entring of the Kings ſilver.	0	0	6
To the *Chirographer*.	0	5	8
The allowance of the Proclamation,	0	1	0

	l.	s.	d.
For engrossing of the Fine, and expedition.	0	1	6
The Attourneys Fee,	0	6	8
Summe Total. besides Fines.	3	4	4

The charge of a Fine knowledged by speciall Dedimus Potestatem.

	l.	s.	d.
Inprimis, the Writ of *Dedimus potestatem*,	1	2	2
The Fine in the Hannaper,	0	6	8
The Lord Chiefe Iustice his hand to the *Dedimus potestatem.*	0	1	0
To the Master of the Rolles, for his hand to the same,	0	1	0
The Returne of the *Dedimus potestatem*,	0	2	0
The Attourneys Fee,	0	3	4
For drawing of the Concord,	0	3	4
The VVrit of Couenant,	0	2	6
The *post Diem inde*,	0	0	4
The Returne thereof,	0	2	0
Item, one of the *Custos brevium* his Clerkes, which taketh out the fine,	0	1	0

The

	l.	s.	d.
The Fine is according to the Value (*id eſt*) the tenth part of the value,	0	10.	*pars*
For the Commiſſion or *Affedauit.*	0	0	4
For the Kings ſiluer.	0	10.	4
The Entring of the writ of couenant,	0	0	6
The *Cuſtos breuium*,	0	2	8
To the *Chirographer*,	0	6	6
If you bring your Writ of Couenant after the Terme is ended, The allowance of the Proclamation will coſt you	0	1	0
For engroſſing of the Fine,	0	1.	0
For Expedition,	0	0	6
For the Attourneys Fee,	0	3	4
Summe Total. beſides the Fine to the King, is	2.	1	10

And ſo much ſhall ſuffice for the charge of a Fine ſo acknowledged: Now followeth,

The Charges of a Fine knowledged before my Lord chiefe Juſtice of the Common-Pleas

INprimis, for drawing of the Concord.	0	2	6

The

	l.	s.	d
The Writ of Couenant,	0	2	6
The Knowledging before his Lordship,	0	9	0
The fine for the Value	*Vt supra.*		
For the *Affeerum* and composition.	0	0	4
For entring the Writ of couenant,	*Vt supra.*		
To the Receiuer, for making of the VVrit, and knowledging of the same.	0	0	6
The Returne of the VVrit of couenant,	0	2	0
The *Post Diem inde*,	0	0	4
To my Lord chiefe Iustices man for getting of his Lords hand to the concord,	0	1	0
To the *Custos brevium*,	0	2	8
For engrossing of the fine,	0	1	0
For expedition,	0	0	6
Attourneys Fee,	0	3	4
Summe Total. besides Fine to the King.	1	13	4

The

The Charge of knowledging a Fyne at the Barre.

	l.	s.	d.
FOr engrossing of the *Concord*,	0	2	6
Bre. de Covenant:	0	2	6
Affedauit,	0	0	4
Allocatio Bre. de Covenant,	0	0	6
To the Receiuer,	0	0	6
To the Sergeant at Barre,	0	3	4
To the *Prothonotaries* Clerke for making the Knowledge,	0	0	6
To the Box,	0	0	6
To the Porter,	0	0	6
Fyne to the King,	*vt supra.*		
Returue of the Writ of Covenant,	0	2	0
Custos Brevium,	0	2	8
Entring of the Kings siluer.	0	0	6
To the *Chirographer*,	0	5	8
Engrossing of the fine & exped.tio,	0	1	6
Summe totall, besides the Kings Fine,	1	3	6

ALL Writs of Couenant, Writs of Assize, and Writs in nature of Assize aboue the value of fortie shillings, pay Fyne, — *as before is set downe.*

Writs of Debt and Writs of *Transgression*, (viz.) — *About* 40.l. *pay Fyne as follow-*

Aboue 40.l.- vnto 100.l.payes,-0.l.6.s.8.d.

l.	s.	d.		l.	s.	d.
100	0	0	payes	0	10	0
133	6	8	payes	0	13	4
146	6	4	payes	0	16	8
200	0	0	payes	1	0	0
233	6	8	payes	1	3	4
240	13	4	payes	1	6	8
300	0	0	payes	1	10	0

Et sic progreditur in infinitum.

VVRits of Forme-downe aboue the value of foure poundes, pay Fyne in forme following.

l.	s.	d.		l.	s.	d.
5	6	8	payes	0	6	8
6	6	8		0	10	0
10	13	4		0	13	4
11	13	4		0	16	8
16	0	0		1	0	0
17	0	0		1	3	4
18	0	0	} *Rateably.*			
19	0	0				
20	0	0				
20	0	0	*similiter.*			
22	6	8		1	10	0

Et sic de ceteris proportionabiliter procedendum est.

All Writs of
Pone of *Iustic.*
Pone of *Writs* of *Right*,
Pone de auerijs bonis & Catallis,
De Conspiratione,
Falso Iudicio,
Recordare of all kindes except *de auerijs &c.*
Accedas ad Curiam,
Dedimus potestatem for knowledge of a Fine, or Deede to be enrolled or cancelled.

	l.	s.	d.
Euery one of these Writs doe pay Fine,	1	6	8

I Doe confesse that I haue here omitted the precise order of setting downe the proceedings of the *Common-Pleas*, in the way of gradation & true footmāship in the scale of method numerously; as also in the deliuery of the Fees of this court.

I do acknowledge, that more might haue bene added, and some of these may bee subiect to the quarrell of those who desire to keepe their Lawmysterie in *Emblems* and *Caracters*, like to cosnionable *Caldeans*; rather then to cōmunicate them with the publike in a knowne way of dealing, and a familiar language of commerce: For aunswer whereunto, I referre me to the preface in the frontispice hereof.

Desiring onely such as affect generall good, to testifie their generous and ingenerate goodnesse in the assistance hereof.

Thus the Author prayes in ayde of your *Common Pleas* men especially, and as duetie more bindeth him, of that most worthy to be so most eminent a *Prothonotarie* among you, Mr. *Brownlowe* with this Conclusion:

You that are Masters of this Science,
I aske your ayde and free suppliance.

Cætera turba tuas muscas venare ministro:
Fulminus hæc valido propria prælia: Vale.

THE

THE KINGS BENCH.

THe *Kings Bench* consistes of the *Prothonotary* side, and the Crowne Office side, &c.
On the *Prothonotaries* side are (as I deliuered in my *Search* of Record:)

Onely
Personall Actions, and some mixt Actions: besides such matters as the King is partie.

FOR their proceeding in personall and mixt Actions, It is genetally the like as that of the *Common pleas*, and therefore shall not require a second recitall. So are their Fees

generally alike : For he that is a ſufficient *Common-pleas* man, is able to the practice of any other Court of Common Law whatſoeuer.

And therefore I ſhall onely ſhew you in what poynts of proceeding they doe differ, and how eaſily thoſe differences are, or may bee reconciled withall.

The *Kings Bench* vſeth onely a *Latitat* for their leading proceſſe.

To this, the firſt Leading *Capias* of the *Common-pleas* does anſwere.

For as the *Capias* hath an Originall Writ to goe before it? So the *Latitat* ſuppoſeth and pretendeth a Bill of *Middleſex* to lead it alſo, For that is granted in the *Kings Bench*, becauſe it is intended that the Defendant vpon returne of a Bill of *Middleſex* precedent doth *Latitare in vallinatu, &c.*

Onely the *Latitat* is like to Doctor *Giffords* water, which ſerues for all diſeaſes, and ſo it holds one forme in all caſes and Actions whatſoeuer, and charges the defendant onely *De pl. Tranſ*, bee it for debt or other cauſe, &c.

But the Originall muſt containe the true cauſe of action, and be ſo exactly ſet downe and drawn, that all the following Proceſſe and proceeding, may be tyed to agree with it *punctuatim.*

The *Kings Bench* man payes fine to the King, in debt and the like actions aboue ——— 40. l.

So doth the *Comman-pleas* man too.

But

But the *Kings Bench* man, he payes but halfe ſo much as the *Common-pleas* man doth; and the *Common pleas* man is the better pay-maiſter too: For hee payes at the firſt entrance into ſuite, and vppon the Originall, whereas the other payeth not till hee declareth, which in many caſes neuer is done at all.

In the *Kings Bench*, the Plaintiffe hath longer time to declare then is allowed in the *Common-pleas*. And where the defendant appeareth vppon ordinary Bayle, whoſoeuer will, may come in and declare againſt him, which is not vſed in the *Common-pleas*

In the *Kings Bench* you ſhall not neede to put in ſpecial baile, vnleſſe it be for debt vpon Speciality

So is it likewiſe in the *Common-pleas*.

But the *Common-pleas* enioynes ſpeciall Bayle for 10. l. And the other not vnder 20. l.

In the *Kings Bench*, the Attourney for the defendant may mend or alter his Plea, after it is deliuered ouer.

So may the *Common-pleas* man too.

But the *Common-pleas* man muſt doe it within the ſame Terme: whereas the *Kings Bench* man hath a longer time, For that hee is not tyed to enter by parcell, and ſo ſoone as the *Common-pleas* man is; but to doe it altogether, and at much more leiſure.

For the charge of remouing the body of any Priſoner, by *Habeas Corpus* in the one, or by

Offenſum.

Ostensum est in the other, though there bee some difference in the first rise, and here and there afterwards in the proceeding of the Remoone, putting in Bayle, and filing of it, yet if wee conferre their Bills of Costs together: in the conclusion we shall finde a very little difference in the whole.

Both pay dammage cleere, that is, poundage vpon euery twenty shillings in a Iudgment: But the *Kings Bench* payes onely twelue pence in the pound, and the other payeth two shillings.

There bee some other few differences in the formalitie, but none in the substance of their mysteries. And thus I leaue the *Prothonotary* side.

For the Crowne Office side: It pleased some to make an especiall suite to exclude my pen from meddling in their mysterie in my former Worke. And therefore (as I then sayd) so I must now resolue, that I doe aduisedly pretermit it, and giue it backe to their owne care, who are better able to performe this generall good at their pleasure, when it shall please them to intend the publique. And now I bend my iourney homeward, and to my native Birth-bed London.

LONDON.

LONDON,
THEIR COVRTS OF COMMON LAW; (viz.)

First, The Lord Mayors Court:
2. The Sheriffes Courts.

THey doe all deale in Actions perſonall for the moſt part, vnleſſe on the Lord Mayors ſide ſometimes a Reall Action falls in by chance, for matter or demand of ſomething lying within the Citie.

Their proceeding generally is *ad exemplum* of the *Kings Bench*, onely differing in ſuch caſes, as where their Cuſtomes carry their predomination.

The Defendant, if he bee a Free-man, hath foure defaults, (that is) foure the next Court dayes of the place where the action lyeth, to put

in Bayle to the cause: But the Forreyner hath no such priuiledge.

The Plaintiffe hath a day ouer to declare, vnlesse it bee so that the Defendant is a Prisoner lying in Durance vppon the same suite; For in such case the Plaintiffe must declare vppon the very next Court day following the Arrest.

And the Defendant is brought by Writ out of the prison to the Barre, to pleade vnto the said Declaration.

There is one mayne difference betweene the Proceeding here, and that aboue at *VVestminster*, which is in the most familiar and ordinary action of the Citie, (*viz.*) their *Indebitatus assumpsit*, And that is, that they deny wager of Law here, vppon it: which (howsoeuer it bee countenanced, and glossed by the Custome) I am sure it takes away the Inheritance of a free-borne Subiect by the Law.

The like opinion I haue of an Attachment made of goods in *propriis manibus* of the owner.

The proceeding heere generally in all cases, where they lay by their Customes, are to the president of the Common Law at *VVestminster*.

Onely they haue one helpe besides; Errour, and *Erronic' emanauit*, after Verdict heere, which is to marke the cause before my Lord *Mayor*; where how farre that *Superintendency* may ouerrule, I know not.

The

	l.	s.	d.
The charge of the proceeding in the Sheriffes Courts in any ordinarie Action, where the Iudgement is had by default, is about	0	16	0
Where the Iudgement is had by Verdict of Iury, about	1	6	8
For a *Non suit*, in case where the Plaintiffe doth not declare, about	0	8	0

For the Customes of the Citie, I referre you to read

Dunthorne,
and,
Liber Albus:

Both which treat vppon the same subiect, and are kept in their common Treasurie at *Guild-Hall* in *London*, as I declared in my last of Direct.on for Search, &c.

And so much may suffice for *London*, in auoidance of Repetition of the same matter ouer againe, for feare of abusing of your patience, or accusing of mine owne memory, &c.

All other Court of Records in all *Cities, and great Townes* Incorporate:

THey all are led to the example of the *Common-Pleas*, and *Kings Bench* generally; And their proceeding (as vnto the formalitie) is alike for the most part: And therefore my excuse is gone before me; for that I doe dwell no longer vppon them: but carry my eye higher, which is into.

THE

THE STARRE-CHAMBER:

The practise of proceeding there.

FIRST, It is to be vnderstood, that in case betweene party and party Subiects heere, the Leading Processe is onely a *Sub pœna ad summonendum* against the Defendant.

And the Defendant hath foure dayes after the Returne of the *Sub pœna* to make his appearance, which he must carefully enter.

	l.	s.	d.
And for entering his appearance, he is to pay.	0.	2	0
Besides the Attourneys Fee, which serues also for the whole Terme.	0	3	4

If he appeare after the foure dayes, and no attachment bee awarded against him, he then payeth onely for the *Post diem*

After the time limmited for the Defendants Appearance is past, vppon the defendants default, and Oath made of the seruing of the *Subpœna*, the Plaintiffe may haue an atrachment against the defendant.

	l.	s.	d
He shall pay Fee for the Oath,	0	2	6
For the VVarrant for the Attachment,	0	2	4
Also for the VVrit and Seale,	0	2	6

If his Returne be at a day certaine, hee hath that day and the next day after to appeare.

But if vpou a generall Returne, he hath foure dayes after (as aforesaid) wherein it appeareth likewise, that this Court followeth the practise of the high Court of *Chancery*.

If the Attachment go forth, and the Defendant be taken thereupon, and commeth in then to make his appearance: hee must enter into Bond to answere the Contempt.

Fee *inde*, 0.l. 2.s. 0.d

If a Bill bee exhibited, the party against whom it is, may, (hauing notice thereof) if hee will, appeare *gratis* vnto it, and make answere without Processe.

If vpon the Attachment made out against the Defen-

Defendant for not appearing, the Sheriffe returne *Nihil feci*, the Plaintiffe may haue an *Alias Attach.*

	l.	s.	d.
For the Warrant *inde.*	0	3	4
VVrit and Seale,	0	2	6

If the Sheriffe returne *Non est inuentus*, vppon the Attachment, the Plaintiffe may haue at *Attach.* with Proclamation: wherein this Court still persues the practice of the *Chancerie, &c.*

	l.	s.	d.
Fee for VVarrant *inde,*	0	3	4
VVrit,	2	2	6

And if the Defendant do not appeare vppon the Proclamation, the Plaintiffe is to call for the Returne thereof, which the Sheriffe will returne *Proclamari feci*, and thereuppon the Plaintiffe may sue forth a *Cõmission* of *Rebelion*, directed to fiue such Cõmissioners as himselfe shal please to name, for the apprehension of the Defendant, &c.

	l.	s.	d.
Fee for the VVarrant *inde,*	0	3	4
VVrit and Seale,	0	15	0

If the Defendant appeare vpon any of the Attachments, the Plaintiffe may haue him committed to the Fleete for his Contempt; vpon order therein.

	l.	s.	d.
For entry and Copy of the Order *inde,*	0	3	0

VVhere

VVhere note, that it is no contempt, vntill such time as the Counsaile shall iudge and order it to be a contempt.

If the Defendant, after he hath appeared vpon Attachment, do depart without answering of the Contempt; his bond may be estrated into the *Exchequer*, and order may bee for his Commitment likewise, notwithstanding the aduantage to be taken of the Bond.

The Plaintiffe must, before he hath any VVarrant for the Processe here, put into the Court a perfect Bill, or else a Bill *pro forma*.

If the Plaintiffe do exhibit a Bill *pro forma*, So much time as the Defendant hath after the Returne of the *Subpæna* to make his appearance, euen so much time hath the Plaintiffe to make his Bill perfect.

If the Plaintiffes bill bee not put into the Court in due time, the Defendant may get him to bee dismissed with Costs.

	l.	s.	d.
Fee for euery twenty shillings assessed for costs to the Clerke of the Court *inde*.	o	2	o *vpon the pound.*
For the VVarrant to lead the VVrit whereby to demande it.	o	2	o
For the VVrit and Seale.	o	2	6

If vpon serching of the sayd VVrit for Costs, and *Affeerum* made on that behalfe, the costs bee not payde by the Plaintiffe, the defendant may

may haue an Attachment againſt him.

The Fee of which Attachment, — *vt ſupra.*

The Defendant hath eight dayes after his appearance entred, to put in his Anſwere, ſo as he doe appeare within his due time.

	l.	s.	d.
For the Copie of the Bill, for euery ſheete, *inde*	0	1	0

If the Defendant can not appeare perſonally, by reaſon of Impotencie, &c. Vpon *Affedauit* made in that behalfe, Hee may haue a *Dedimus poteſtatem*, to take his Anſwere in the Country, as is vſed in *Chancerie.*

	l.	s.	d.
Fee for the *Affedauit* herein,	0	2	4
The Copie thereof,	0	2	0
The *Non* appearance of euery ſeuerall Defendant ſerued to appeare and hauing this benefit, *payable in Court.*	0	1	4
For euery the like for the ſame, to his Attourney, *per* piece *euery name.*	0	1	8
For engroſſing of the Bill, for euery ſheete, *inde* *euery ſheete.*	0	0	8
The Warrant,	0	3	4
The Writ and Seale,	0	7	2

If the Oath to iuſtifie the impotencie in the ſaid caſe cannot be made; Then the ſaid *Dedimus Poteſtatem* muſt be obtained, of, and from the Lord *Keeper*, and by ſuite vnto him to bee made in that behalfe.

	l.	s.	d.
Fee for the Entry of this Order,	0	3	0

For the other Fees, —— *vt ſupra.*

If neither the *ffedauit* of impotencie can be made; Nor the Lord *Keepers* allowance can be had herein, Then meanes muſt be vſed to procure the Plaintiffes conſent, that the Anſwere may bee made by *Dedimus Poteſtatem* in the Countrey; which if it be alſo denyed, there is no remedy, but the anſwere muſt be made heere perſonally, vnder the perill aforeſaid.

After a Commiſſion of *Dedimus Poteſtatem* is gone forth to take the Anſwere in the Countrey, It muſt be returned, after it is executed, by Oath; vnleſſe one of the Commiſſioners himſelf bring it.

	l.	s.	d.
Fee for the Oath in this caſe,	0	0	4
For the Entry thereof,	0	1	0

Where note, that the deliuerie made by a Commiſſioner, ſaueth both the Oath, and the charges of the Oath alſo.

And if the Defendant in this caſe doe not anſwere in time: Then the Plaintiffe may make out an Attachment, (*vt ſupra.*)

	l.	s.	d.
For the Warrant *inde*,	0	3	4
For the Writ,	0	2	6

And vpon the Attachment in this caſe, the Plaintiffe may proceed to a Commiſſion of Rebellion, (*vt ſupra.*) And

And if a *Dedimus Poteſtatem* bee granted to the Defendant to make anſwere in the Countrey; The Plaintiffe may, if he pleaſe, ioyne with him therein, and miniſter Interrogatories for the Defendant to anſwere vnto likewiſe.

If the Plaintiffe do ioyne with the Defendant in the *Dedimus poteſtatem*; And the *Dedimus poteſtatem* is obtained by *Affedauit* made (*vt ſupra.*) The Plaintiffe muſt then and in ſuch caſe pay to the Defendant the one halfe of the charge of the Writ and Seale, &c.

	l.	s.	d.
Fee for the Warrant for the Writ,	0	3	0
The Writ,	0	7	2

The Plaintiffe hath foure dayes, after the Defendant hath deliuered in his Anſwere, to put in his Interrogatories, whereupon the Defendant is to be examined.

	l.	s.	d.
Fee for the Copy of the Anſwere for euery ſheete, *inde*	0	1	0

And if the Defendant ſo pleaſe, he may omit the benefit of putting in of any ſuch Interrogatories at all: For he is not bounden therevnto.

And if the Defendant doe depart out of Towne, before he be examined vpon Interrogatories (as aforeſaid.)

Then the Plaintiffe may haue an Attachment againſt the Defendant for ſuch departure.

	l.	s.	d.
Fee for the Warrant *inde*,	0	3	4
For the Certificate of the Examiners, to testifie that hee the Defendant is not examined,	0	1	0
For the Writ,	0	2	6

And vpon the said Attachment, the Plaintiffe may proceed to the Commission of Rebellion against the Defendant, if hee will in manner (as aforesaid.)

If the Interrogatories bee put in by the Plaintife; The Defendant may bee examined thereupon.

	l.	s.	d.
Fee for the Examination,	0	2	4
For admittance to Attourney,	0	2	4

But if no Interrogatories bee put in by the Plaintiffe, within the time limited (as aforesaid:) Then after the time (which is foure dayes) expired, the Defendant may safely depart out of Towne,

Prouided, that hee the Defendant doe first obtaine from the Examiners a Certificate, to testifie that the plaintiffe hath not yet put in any Interrogatories against him.

Fee for the Certificate, ——— *vt supra.*

For his admittance to Attourney, --- *vt supra.*

And if the Defendant doe *Demurre* to the Bill of the Plaintiffe: Then the Defendant shall not need to put in Sureties thereupon, but only

to

to moue the Court, that his said *Demurrer* may be referred to the Examination, and Consideration of some of his Maiesties Iustices of either Bench, or to some of his Maiesties Counsaile learned in the Law: and that they may certifie backe to the Court, whether the said *Demurrer* be sufficient or no.

For the entry of the Order here vpon, ——— l. 0 s. 3 d. 0

And if the Iustices, or his Maiesties Counsell in the Law, to whom the said *Demurrer* is so referred, and committed, doe vpon Examination and Consideration therof, certifie to the Court, that they finde the said *Demurrer* to be insufficient: Then therevpon the Defendant is to pay to the Plaintiffe for his extraordinarie costs in this behalfe, forty shillings.

And the Plaintiffe in this case may likewise haue a *Subpœna* against the Defendant to make a better Answere.

Fee for the Entry, and Copy of the said Certificate, ——— l. 0 s. 2 d. 0

The Warrant for the Writ to call the Defendant to make a better answere, ——— 0 2 0

The Writ and Seale, ——— 0 2 6

And if the Defendant doe not pay to the Plaintiffe the said summe of forty shillings so awarded for the Insufficiencie of the *Demurrer*; and that vpon the returne of the *Sub pœna* to

make a better Answere; Then the Plaintiffe may haue a *Sub pœna ad solvendum* in that behalfe against him.

l. s. d.

Fee for the Warrant *inde*, — — 0 — 2 — 0

For the Writ and Seale, — — — 0 — 2 — 6

And if the Defendant doe not pay the Plaintiffe vpon that *Sub pœna* being serued vpon him, And Oath thereof be made: Then the Plaintiffe may haue an Attachment against the Defendant for his said Costs so awarded, and proceed thereupon: — — — — — — *vt supra.*

The Fees, *inde* — — — — — — *vt supra.*

If *Affidauit* be made that the Defendant is so aged or impotent, that hee cannot come to answere or *Demurre* heere in person, His *Demurrer* will be accepted, as though hee were personally present heere at the doing thereof.

And then if the Defendant doe *Demurre* to one part of the Bill, and Answere to another part of it; The Defendant is to answere to Interrogatories, touching that part of the Bill, vnto which he so answered.

And if vpon examination had of the Defendants *Demurrer*: The Iustices, or such of his Maiesties Counsaile learned in the Law, vnto whom the same was referred, doe certifie to the Court that they finde the *Demurrer* to bee sufficient; Then, and thereupon the Plaintiffes Bill is to be ouerthrowne, And the Defendant shall

be

be dismissed out of the Court, with his Costs in this behalfe sustained, to hee allowed vnto him.

	l.	s.	d.
Fee for the entry, and Copie of the said Certificate,	0	1	0
For the dismission,	0	2	0
To his Attourney for his Bill of Costs,	0	6	8
To the Clerkes for entry,	0	2	6
For the Warrant to lead his Writ *ad solvendum*,	0	2	0
For the Writ and Seale,	0	2	6

Where note, that if neither the Plaintiffe, nor the Defendant doth moue the Court to haue the *Demurrer* to bee referred in manner as aforesaid; there the cause proceedeth no farther, but dyeth.

And note, that oftentimes the sufficiencie of answere made to Interrogatories, is referred by the Court to Committees: But howsoeuer the Certificate is made therevpon, for, or against either party, no dismission doth follow therevpon; Onely some small costs is awarded to the party, on whose side the Certificate is made: for the Recouerie of which costs, they may take such course and order, as is to be taken in case of a *Demurrer*.

Fees *vnde*, —— *vt supra*.

When the Defendant hath put in a sufficient Answere to the Plaintiffes Bill, and the Defendant is likewise examined vpon Interrogatories

(as

(as aforesaid:) Then the Plantiffe may Reply, and take forth a Writ *ad reiungendum* against the Defendant, which must be serued vpon him for that purpose.

Fee for the Copy of the Answer and Examination *super interr.* — } o—*vt supra.*

	l.	s.	d.
The Warrant to lead the Writ,	o	2	o
The Writ and Seale,	o	2	6

Where note that the Plaintiffe is not compellable to Reply, before such time as all the Defendants haue made answere.

And if the Defendant answereth generally, *Not guilty*: Then there shall need no Replication to be made at all; because they be at issue vpon the same Plea; And then the Plantiffe may take out his Writ *ad iungendum in Commissione*, to make the Defendant ioine with him in Commission.

Fees *inde*, ——— *vt supra.*

And if the Plaintiffe doe Reply, before such time as the Defendant is examined vpon Interrogatories; hee loseth the benefit of examining the Defendant in that kinde:

And if the Plaintiff do not reply, the next day after the dayes expired, which are giuen to him in warning, to make his Replication: The Defendant may in such case, and vpon such default of the Plaintiffe, moue to haue the cause dismissed, for want of effectuall prosecution.

Fee

	l.	s.	d.
Fee for the Entry of the Order,	0	3	0
For the Reſt, ——— *vt ſupra*, for *Demurrer.*			

When the Plaintiffe hath ſerued the Writ *ad Reiungendum* vpon the Defendant, And *Affidauit* bee thereof made, Hee may take forth his Commiſſion to examine Witneſſes.

This Commiſſion is to be directed vnto ſuch Commiſſioners, as the Plaintiffe and Defendant ſhall agree vpon.

	l.	s.	d.
Fee for the *Affidauit* made for the ſeruing of the Writ *ad Reiungendum*, ———	0	2	4
The Warrant, ———	0	3	10
The Writ Com. ———	0	7	2

If the Defendant doe refuſe to ioyne with the Plaintiffe in the Cõmiſſion: Then the Plaintiffe may ſue out the Commiſſion himſelfe alone on his party, and direct it vnto foure Iuſtices of the Peace, and execute it at his pleaſure:

Otherwiſe the Plaintiffe may (if he will) examine his Witneſſes here in Court.

When the Writ *ad Reiungendum* is ſerued vpon the Defendant, he need not to enter any appearence therevpon, but onely to Reioyne to the Replication.

Fee *inde* ——— *vt ſupra.*

And if the Defendant doe ioyne with the Plaintiffe in Commiſſion: Then the Defendant

is to pay the one halfe of the Fee of the Commission:

Fee *inde*, ——— o — *vt supra* — o

If the Plaintiffe doe delay the suing forth of any Commission to examine Witnesses, Then the Defendant, vpon Oath made that hee was serued to reioyne, may himselfe alone take forth a Commission to examine on his party:

Fee *inde*, ——— *vt supra.*

Or otherwise, the Defendant for such delay of the Plaintiffe, may the next Terme following moue to haue the Cause dismissed.

When the Commission is executed and returned, The Plaintiffe or Defendant may assigne and giue to each other a day to shew cause why Publication should not bee granted in this matter, &c.

	l.	s.	d.
Fee for Returne of the Commission,	o	o	4
The Rule for Publication,	o	1	o

After Assignement to Publication & the daies so assigned be expired; if nothing be said to the contrarie, Then Publication may be entred.

	l.	s.	d.
For the entry of Publication,	o	1	o

Note, that nothing stayeth Publication, but it must be granted vpon

Order,

Order,
Affedauit,
Certificate,
or
Conſent.

After Publication is ſo had and procured (as aforeſaid) the Cauſe ſtandeth then at the higheſt: For vntill Hearing, nothing more is to bee doue here.

	l.	s.	d.
For the entring of the Cauſe then into the common Booke of Hearing,	0	1	0

Laſtly, you ſhall obſerue that nothing altereth the aforeſaid grounded rules of this moſt Honorable Court, but only

Order,
Affedauit,
Certificate,
or
Conſent.

Which procured vpon ſome extraordinarie accidents, doe ſometimes change the preſcribed cuſtome of proceeding and rule of the Court.

The forme of proceeding Ore tenus *in the* Starre-Chamber *followeth.*

IF the Delinquent hath done or ſpoken any thing worthy the Hearing and Cenſure of this honourable Court, And be queſtioned for the ſame, And thereupon doth confeſſe the fact or words, and ſubſcribeth his hand to the ſame Confeſſion made in writing before the Lord *Chancellour* or Lord *Keeper*, or any the Lords, Iudges, or the Kings Counſaile; And doth, when he is called to this Barre to anſwere it, likewiſe confeſſe the ſame to be true, and acknowledgeth his hand ſubſcribed to the confeſſion made (as aforeſaid) Then, and in ſuch caſe the Court vſeth to proceede to Sentence and Cenſure in the matter.

It hath not bin ſeene formerly, That any but the Lord *Chancellor* or Lord *Keeper*, the Iudges, or the Kings Counſaile haue taken any ſuch Examinations or Confeſſions ſo ſubſcribed vnder the Delinquents hand (as aforeſaid.)

Neuertheleſſe, if any other who hath authoritie in this behalfe, ſhall take any ſuch Examination & ſubſcription, And the partie ſo examined and ſubſcribing, ſhall at the Barre confeſſe the matter,

matter, and acknowledge the hand; The Court may proceede to Sentence and Cenſure thereupon:

For the life of his Examination is the Confeſſion and acknowledgement thereof at the Barre, when the Court doth examine him (as the cuſtome is) whether that which is confeſſed in writing be true, or not.

And if the Lord *Chancellor* or Lord *Keeper*, the Iudges, the Kings Counſaile, or any other ſhall take any ſuch Examination and Confeſſion; Yet, if the partie at the Barre ſhall either deny his hand thereunto ſubſcribed, or the matter therein contained, to be true; Then the Court doth not vſe to proceede to ſentence or cenſure him.

So conſequently the ſtrength of the Examination ſeemeth not to ſtand in the partie who taketh it, if hee be of authoritie, but in the parties Re-examining the ſame at the Barre, and the Recognization thereof.

And ſo I conclude the practice of the Court of *Starre-Chamber*.

THE EXCHEQVER.

THE *Exchequer* hath three seuerall places of proceeding, according to the three differing maner of busines belonging vnto it on the pleading side: (*viz.*)

The *Chequer* Barre,
The *Chequer* Chamber,
The Court of *Pleas*.

For the *Exchequer* Chamber, It is the English Court or place where the proceedings are held by English Bill and Answere; And the proceeding thereof is very much like to that of the *Chancerie*, (as is said before) and therefore I meane not to insist any further vpon it.

For the Court of *Pleas*, It is the very Imitatiue of the Courts of Common Law in the Hall, and therefore I would bee loth to boyle the same meate twice ouer to your Trencher: but

but reſerue my ſelfe for the *Chequer* Barre eſpecially, and the Receipt ſide.

The Proceſſe and Proceedings of the *Chequer* Barre are diſtributed betweene the two *Remembrancers* of this Court; (*viz.*) the Kings *Remembrancer* and the Lord *Treaſurers Remembrancer*:

And what doth properly appertaine to the one, and what to the other, I haue at large ſet downe in my *Direction* for *Search of Record*, according to the finall Doome and Order of Sir *Richard Lyſter* Lord chiefe Baron in the time of King *Henry* the eighth:

And by the view of the particular matters and buſineſſes therein appropriated ſo reſpectiuely, you may the better iudge of the proceeding to be held vpon them; the rather, for that euen here at the Barre ſide, they doe in moſt things follow the practice of the common Law alſo.

Therefore I ſhall bend my ſelfe to ſet foorth the practice of thoſe things which are not preſidented in the other Common Lawe Courts at all, beeing matters onely proper to this, &c. with that ſmall difference which is betweene this Court and thoſe of the Common Lawe belowe Staires, in point of Appearance at the beginning of a Suite, &c.

The

The order of Appearance in the Exchequer.

IN the *Exchequer* the appearance may bee made by Attourney, ſo that there be ſureties laid in to anſwere the matter.

This Bayle muſt bee alwayes taken before a Baron in the Court, and not in his Chamber, as is vſed in other Courts:

The Proceſſe is a *Sub pœna*; And if the Defendant doe appeare therevpon by his Attourney, his Sureties muſt be bound by Recognizance (as aforeſaid) with Condition that hee ſhall render, &c. If the Defendant be condemned.

If the Plaintiffe be pleaſed, The hand of the Defendant may be ſufficient in this caſe, whether he appeareth perſonally or no:

And except the matter bee the greater, one Surety may ſuffice, &c.

The Charge of Appearance vpon a Sub pœna *in the* Exchequer.

	l.	s.	d.
IN *primis the Appearance,*	0	0	8
The Recognizance,	0	0	8
The Attourneys Fee,	0	3	4

The

	l.	s.	d.
The Copie of the Information, at eight pence the sheete, ——	0	0	8 le sheete.
For entring of the Bayle, if it be in generall issue, —— ——	0	5	0
If in a speciall issue, then for euery halfe Roll, —— —— ——	0	16	4
To a Counsailour for drawing of the Plea in Barre at the least, —— —— —— ——	0	6	8 If it will satisfie.
The *Sub pœna* it selfe and Seale wherevpon the appearance is, ——	0	2	7

The charge of an Inrolement in the Exchequer.

	l.	s.	p.
Inprimis, to the Baron before whom the acknowledgement is made, —— —— ——	0	6	8
To the Master of the Office for his hand, —— —— —— ——	0	6	4
For euery Roll, —— —— ——	0	3	4
To the Attourney. —— —— ——	0	3	4
Summe Total.inde —— ——	0	19	8

The charge of the Sheriffes account in the Exchequer.

	l.	s.	d.
IN*primis*, for the *Tales* vpon payment of proffers,	0	2	8
For the Entry of the same *Tales*,	0	1	4
For the *Diem extremum clausit* after the death of the Sheriffe, whereby Execution is to bee returned, *Sur. accompt.*	0	13	4
For the Warrant of Attourney,	0	1	0
The entry thereof,	0	0	8
The Vshers Fees, & poore mans Box,	0	13	4
The Controller of the Pipe,	0	16	8
To him more in regard,	0	3	4
To his Clerke for Summons and in regard,	0	5	0
To the Clerke of the Pipe in part of his Fee,	1	0	9
To the Lord Treasurers Remembrancer,	0	13	4
To the Forreigne Opposer for changing of the greene Wax, and making of the scrowle thereof,	1	6	8
To him for allowance of the wages for the Iustices of the Peace,	0	18	0

To

To the Clerke of the Eſtrats for portage of bookes,	*As you can agree.*
To the Vnder-Clerke of the *Pipe* for the like,	*Similiter.*
The Preſident for the forreigne Account,	*Quer.*
Fee in regard of the Iuſtices of Aſſize their Dyet,	l. s. d. 10 — 0 — 0
To the Attourney for the Entry thereof, and the other Petitions,	2 — 0 — 0
To the ſaid Attourney for his ordinary Fee for the whole yeere, *ad recipiendum mandat, &c.*	1 — 6 — 8
To him in regard for euery Terme during the Account,	0 — 3 — 4
To his Clerke in regard,	0 — 10 — 0
The Copie of the Sheriffes Seiſures, according to the number of them.	*According to the number of them.*
Le: Seiſure old,	0 — 1 — 0
Le. Seiſure new,	0 — 2 — 0
To the Clerke in regard of the ſame,	0 — 3 — 4
To the Remembrancers Office for euery thereof, and for ioyning the Tales of proffers,	0 — 3 — 4
On the Lord Treaſurers Remembrancers ſide for the like,	*Similiter.*

	l.	s.	d.
For allowance of the same *Tales*, of payments of money in the Receipt of the Exchequer,	0	1	4
For the ioyning of the same,	0	0	8
For allowance of the same,	0	1	0
For euery day that is giuen to the Sheriffe for respect of his Accounts,	0	6	8
For Entry thereof,	0	2	0
To the Viher for Proclamation when the Sheriffe is cast out of the Court,	0	2	6
For the *Quietus est*, the making and allowing of the same,	1	0	0
For the Baron his Fee for the taking and allowing of the forreine accounts,	0	6	8
To the same Baron of examining of the Sheriffes Schedule,	0	6	8

The ordinarie charge for passing of an Account.

Inprimis, for deliuerie and receipt of three Certificates,	0	1	0
For deliuerie of the Kings part of the bookes of Extant to the Auditor,	0	0	4
To the Auditors man for a bagge,	0	0	6

For

	l.	s.	d
For a Warrant of Attourney,	0	0	8
To the Teller for Receiving of the money, and for making a Bill thereof,	0	0	4
To the Auditors man for allowing of the Certificates,	0	1	6
To the Auditors man for engrossing of the Accounts,	0	4	0
To the Barons man for Receiuing & allowing of the Warrants of Attourney,	0	2	0
For Entring of the Account on the Kings Remembrancers side,	0	1	0
For the like entry with Master *Smith*,	0	1	0
For ioyning of their two *Tales*,	0	0	8
For entring of the *Quietus est*,	0	2	0
For the *Quietus est*,	0	3	4
The Attourneys Fee,	0	3	4
Summe Total is about,	0	18	0

And thus much for the *Exchequer*.

The Sheriffes Fees doe next offer themselues in manner following.

FEES BELONGING TO SHERIFFES.

	l.	s.	d.
IN primis, for the Returne of euery *Cepi Corpus*,	0	0	4
For the Returne of a *Nihil*, or a *Non est inuentus*,	0	0	4
For returne of a Proclamation,	0	1	0
For the returne of a *Venire facias*,	0	1	0
For the return of a *Habeas Corpor.* or *Distringas*,	0	2	4
For euery name returned vtlawed,	0	0	4
For making of a Warrant vpon a Writ, if it be directed to the ordinary Bayliffe, then for euery name,	0	0	4
If to speciall Bayliffe, or Bayliffes, Then for euery name,	0	2	0
For the Arreſt of euery Defendant,	0	1	0

Payable by the Plaintiffe.

For

	l.	s.	d.
For making the Bond wherein the Defendant is bound with two Sureties for his appearance at the returne of the Writ, and in the Court named in the Writ,	0	0	4
For a Copy of the Warrant vpon the Writ,	0	0	4
For a *Replevin* or *Replevit* in the Shire,	0	2	0
For the returne of a *Recordare*,	0	0	4
For the Returne of an *Accedas ad Curiam*,	0	2	0
For the returne of a *Distringas nuper vic.*	0	2	0
For the allowance of a *Supersedeas*, if it bee after the returne of the Exigent,	0	1	0

For the Executing of a Writ to enquire of Waste:
Also to enquire of Dammages:
Also to execute a Statute:
Or *habere facias seisinam*:
A Writ of Right:
De partitione faciend.
For remouing the Ouer-charge of Common of Pasture.
Enquirie vpon an *Elegit*.
Writ of forcible Entry, or holding with force, wherevpon the partie amoued is to bee restored to his possession.

The Sheriffe hath for these, as you can agree with him.

Exe-

Execution of a Iudgement, *super bre. de dote.* And the like.			
For the seruing of an Execution, there is a generall Rule, that hee should be allowed according to the rate thereof in poundage, —— ——	*See the Statute of* Eliz.		
For the Returning of a *Mandani ballino*, —— —— —— —— ——	l. 0	s. 0	d. 4

But vnlesse I had beene thrice an Vnder-Sheriffe, it were impossible for me to set downe all his Fees plainely and honestly: Therefore I leaue the rest to offer themselues vnto you, wishing it to be euer in *meliorem partem*; and for your benefit and credit.

FEES

FEES BELONGING TO THE CLERKE of the PEACE and his Office, *now follow.*

FIrſt, it is to be vnderſtood, that heretofore the *Clerke* of the *Peace*, being onely Clerke vnder and vnto the *Cuſtos Rotulorum* of the County, was wont to haue wages yeerely of the ſaid *Cuſtos* for his ſeruice.

The Clerke of the *Peace* is to make out all the Writs of warning, of all ſuch perſons as are to giue attendance at the Seſſions of the Peace, to be kept at ſuch place, as the Iuſtices doe appoint and agree vpon.

And at the place and time appointed for the Seſſions, The Clerke doth firſt reade the Commiſſion of the Iuſtices, And then the Sheriffe of the Shire doth returne foure and twenty of euery hundred in the County, of which there

is one Grand Iury for the body of the Shire drawne forth; and this is called the great Enqueſt.

And when the great Enqueſt is ſworne, One of the Iuſtices giueth the charge vnto them, wherevpon they ſhall enquire.

After the charge giuen and ended, They doe depart from the Barre, to ſome roome in ſome houſe neere thereabouts, where they may bee conueniently together.

And to them then and there are brought all Bills of Felony, Trepaſſe, Ryots, or other miſdemeanours & offences giuen them in charge to enquire of.

And if the great Enqueſt finde any of the ſaid Bils or preſentments to bee true, And the parties themſelues who are therein found faulty, or guilty, be abſent, ſo that they cannot be quitted, or puniſhed for the preſent: Then, & in ſuch caſe, The Clerke of the Peace is to make forth againſt them three *Capias's* and an Exigent to come in, to trauerſe the preſentment, or to ſubiect themſelues to the Cenſure and Doome of the Court, &c.

When the great Enqueſt finde the Bill true; they write on the Back-ſide thereof, *Billa vera*; But in caſe they can not finde it true for want of ſufficient Euidence; Then they write on the back-ſide thereof, *Ignoramus*.

If it bee found, then the Clerke is to make forth

forth Proceſſe (as aforeſaid:) but if the Iury finde it not, then farther proceeding is not to be had thereupon.

If the partie ſo indicted be preſent, if it bee in caſe of Felony, &c. hee may bee forthwith arraigned before the ſaid Iuſtices, who are to proceed vpon him farther, as the Law in ſuch caſe prouideth.

If he be not preſent, nor Attached, but at libertie till hee be vtlawed; Then after ſuch *Vtlary*, euery Acceſſarie to the fellony, may bee arraigned and tryed; but not before.

For other offences of inferiour nature, the partie indicted is to come in to make his Fine at the diſcretion of the Iuſtices, or two of them at the leaſt, whereof one muſt bee of the *Quorum*, vnleſſe that before that time the partie can get the Indictment to be remooued by *Certiorare* into the *Kings Bench*.

And if it bee ſo Remoued thither, Then the party muſt either there trauerſe it *eum effectu*, or elſe compound with the Iuſtices of the ſaid Court for the ſame.

	l.	s.	d.
The Fees which euery perſon ſo indicted is to pay at the Seſſions,	0	2	6
Whereof to the Cryer and Marſhall,	0	0	6
And to the Clerke of the Peace,	0	2	0

	l.	s.	d.
And in case where a forcibly Entry, or forcible holding is found before the Iustices, or some of them, The *Clerke* of the Peace is to make a Writ of Restitution, directed to the Sheriffe, to put the partie amoued, into the possession: For which, his Fee is	0	6	8
Item, for euery Warrant of the Peace,	0	2	0
Item, for euery *Superfedeas*,	0	2	0
Item, for euery Warrant of good Abearing,	0	2	0
Item, of euery person indicted of Felony, and thereof acquitted,	0	2	0
Item, for euery person acquitted vpon other Bils,	0	2	0
Item, vpon Remouing of euery Indictment by *Certiorare* into the *Kings Bench*: For the allowance of the said Writ,	0	6	8
Item, for euery Writ at the suite of the partie vpon a Trauerse tendered,	0	2	0

Some other few Fees there bee vpon matter within the compasse of the Commission of the Peace, which time may enable me to adde: But for the other Fees which the *Clerke* of the Peace

Peace doth take in ciuill matters; as for Licences of Malstors, Hyglers, &c. becauſe hee is onely *Clericus Clerici Rotulorum pacis*, I vnderſtand not how he claimes thoſe Fees in ciuill cauſes.

And for the Licence and Bond of Victualers giuen vpon Licence,

The Fees are vncertaine: For in ſome Counties the whole charges ſtands the Victualler in 6. s. in ſome 7. s. and in ſome 8. s. *Vijs & modis per annum* yeerely. And the Victualler Licenſed *de nouo*, in ſome places payes more then the older Victualler. *Fee vncertaine.*

Note withall, neuertheleſſe, that the Victualler is the beſt Candle-rent Tenant that the Clerke of the Peace hath: And therefore I dare truſt them together, for I know not where I can better leaue him.

The Clerke of the Aſſize holds the next place for taking of Fees, (*viz.*)

CLERKE OF THE ASSISES FEES,

(viz.)

	l.	s.	d.
IN primis, pro Quærela,	0	2	0
Item, pro pl. in Barr. seu in Assiss.	0	2	0
Item, pro capiend. Assiss. super exit. ex vtraq; parte,	0	2	0
Item, pro intratione inde in Assiss.	0	2	0
Item, pro intratione Non pros. pro Querente,	0	2	0
Item, pro quolibet bre. secundum longitudinem eiusdem,	secundum longitud.		
Item, pro quolibet Adior. in com. Barre, prout concordare poterit:	As ye can agree.		
Item, pro quolibet Adior. ex vtraq; parte, si dies dat. sit vtriq; parti.	0	2	0
Item, pro quolibet Warrant. Allocat.	0	0	8
Item, Quer. in qualibet Assiss. de Seisin capt. tertia pars ex tertia parte dampnorum,	Ratabiliter.		

Feod.

Recod. de Record de Nisi prius,	0	0	6
Item, pro deliberatione eiusdem in Curia,	0	5	0
Item, de Quer. si Def. cognouerit actionem,	0	2	0
Item, de Def. si Quer. non vult prosequi,	0	2	0
Item, pro qualibet prima Verdict,	0	8	8
Vnde Iustic.	0	6	8
Item, de Def. pro inders. cuiuslibet Record & Informac. vbi plit.	0	4	4
Item, pro quolibet Warrant Attor.	0	0	8

And thus farre my present Collations extend for the present, touching our Clerks of the Assizes their Fees.

The Charge of prouing a Will followeth.

THE

THE CHARGE OF PROOVING OF A WILL

in the *Arches*, the *Inuentorie being forty pounds and not aboue.*

	l.	s.	d.
IN primis, the Proctors Fee and *Prox.* for prouing the Will, —	0	5	8
Item, the Seale and *Probate* of the Will. —	0	1	8
Item, for Regiſtring of the ſame, —	0	1	6
Item, for ingroſſing of the Will, if it be but ſhort: —	0	1	0
Item, for ingroſſing of the Inuentorie, and exhibiting of the ſame, —	0	3	4
Item, for the Regiſters hand to it, —	0	1	0
Summe total. —	0	14	2

Generally for Probate of Wills, and the charge thereof according to the rate of the Inuentorie, ſee the Statute in that caſe, vnder that Title eſpecially prouided:

If the Officers whom it concernes, can bee perſwaded that it was prouided for them: *hinc oritur queſtio.*

COVAT

COVRT OF VVARDS.

Instructions to sue foorth a Lunaticke.

FIRST, you are to make suite to the Master of the Court of Wards for the Custodie of him whom you desire to haue; not without much care, that you vse a friend worthy your trust in this behalfe.

When you haue a promise there, you must preferre your Petition to him that is Master, desiring that he will be pleased to grant you a Commission for the finding of the same Lunaticke: which Commission is to be directed to the Feodarie of the County where the Lunaticke abideth, and two others at the least, whom it shall please the said Master to appoint.

When you haue order for the Commission (as aforesaid) Then you are to goe to his Maie-

ieſties Attourney of the Court of Wards with the order, And he will therevpon make you a Warrant for the drawing vp of your ſaid Commiſſion.

This Warrant you muſt carry to the proper Clerk, who is to draw your Commiſſion, which he vpon ſight of the Warrant, will accordingly doe.

	l.	s.	d.
Fee to the ſaid Clerke for the ſaid Commiſſion,	0	16	0

Note, that when you procure your Order from the Maſter, you muſt haue a ſpeciall care to ſee that his Secretary doe Regiſter your name for the ſaid Grant, in the Booke of Remembrances of this nature, leſt it ſhould be forgotten, And withall it will not bee amiſſe, that you vſe means to make the ſaid Secretary mindfull of you in your abſence.

When the ſaid Commiſſion is executed, and the Office found therevpon, The ſame muſt be deliuered into the Court of Wards, And hee that deliuereth it, muſt bee ſworne vpon the deliuerie, that hee receiued it from the Commiſſioners, and that in ſuch maanet as he doth deliuer it, being vnaltered in any point.

	l.	s.	d.
Fee for the ſaid Oath,	0	0	4

Then it is to be deliuered into the Office at the *Temple*, from whence it is to be ſent ouer to the *Petty bagge*, where the Clerke will make you

you out a Copie of the ſame Commiſſion, and Inquiſition found vpon it, which you muſt carry backe to the Office of the Court of Wards, And then the chiefe Officer there, or the Auditor of the Court will make your Schedule by, and out of the ſame Office or Inquiſition ſo found.

To this Schedule you are to get the hand of the Maſter of the Court; And that being obtained, you are to bring the ſaid Schedule ſo ſigned to the Officer, who is to make your Indentures of bargaine therevpon, which he, vpon ſight thereof, will performe accordingly.

Then you are to carry the ſaid indentures to the Maſter of the Court, who will ſet his hand to one part of the ſame, and you that haue the Grant of the ſaid Lunaticke, muſt ſet your hand and ſeale to the other part. And the part which you are to haue, muſt bee heerevpon ſealed with the ſeale of the Court.

But before you haue your part, you muſt ſeale to the Kings part, And muſt alſo finde two Sureties to be bound with you, That you ſhall truely account once in euery yeere to the Auditor of the Court for the profits of the liuing of the ſaid Lunaticke, And to anſwere the ſtocke and ſtate of the ſaid Lunaticke, if hee ſhall chance to dye, or recouer his former health.

And if the parties who ſhould be bound with you, be not in towne: Then you muſt haue a

Commiſſion directed to foure ſuch in the Countrey as you will nominate, to ſee and certifie the ſigning and ſealing of your ſaid Sureties to the ſaid Bond.

This Commiſſion and Bond muſt bee returned into the Court of Wards, who deliuers it ouer to the proper Clerke or Officer; whereupon you ſhall haue your part vnder the hand of the Maſter of the Court, and the Seale of the ſaid Court.

Then muſt you Inroll your part of the ſaid Indenture, ſo ſigned and ſealed in the Auditors Office: And ſo you haue made an end, &c.

And

You may conceiue how ſeuerall Fees doe ariſe vpon every ſeuerall paſſage aforeſaid.

Inſtructions to paſſe a Ward.

IN *primis*, you muſt make meanes for the obtaining of a Ward, as in caſe of a Lunaticke aforeſaid.

When you haue got the promiſe and order for it from the Maſter of the Court of Wards, you are to goe to the Kings Attourney of the ſaid Court, and vſe means vnto him for a Commiſſion to enquire and finde the Ward, and a Tenure for the King; whereupon you may haue a Warrant from him to leade ſuch a Cōmiſſion.

When

When you haue that Warrant, and therevpon your Commiſſion; you muſt get that Commiſſion, to be by the proper Clerke to whom it doth appertaine, directed to the Feodarie of the County, and two ſuch others as you ſhall nominate and appoint.

When this Commiſſion is ſped and executed, and the Tenure found for the King, which doth conſequently proue the Ward, you are to returne this Commiſſion into the *Petty-bagge*, and there to take a Copie of it, which you are to deliuer to the Clerke to whom it belongs in the Office of the Court of Wards; and herevpon he will make you forth vpon ſight thereof a Schedule of the value of the Land.

Then you muſt carry that Schedule to the Secretarie of the Maſter of the Court, to the end that he may procure his Maſters hand to be ſet vnto the ſame, And the Office for it, with the Wards exhibition, and the names of the partie, or parties, which are to haue the Ward: All which muſt be likewiſe ſet downe.

And when you haue the ſaid Schedule ſo ſigned, Therevpon the Indentures of the grant are to be drawne vp, To the one part whereof, he or they that haue the Ward, are to Seale and ſigne; and to the other, the Maſter of the Court doth vſe to ſubſcribe his hand, and then the Seale of the Court is affixed therevnto.

Now if the parties who haue the graunt,

haue not also their Sureties who are to vndertake for them in this behalfe, in Towne, so that they may heere enter into Bond with him, with condition of making a true account, and not doing of any waste, &c. Then there must bee a Commission procured to foure such persons as the Grantee or Grantees shall name, to attend and see the sealing and deliuery made by him, or them, and his, or their Sureties, which the Commissioners must certifie and send vp vnder their hands and seales, attested with some Witnesses to the same.

And this must be deliuered into the Office of the said Court, to the proper Officer, with and vpon Oath to bee made, that it is deliuered in such manner as it was receiued from the Commissioners themselues vnaltered, &c.

Thereupon you shall haue a Bill for the receiuing of the exhibition thereof, And according to the Ancient forme of practice, That Bill was wont to bee then signed by the Kings hand, by the procurement of the proper Clerke of the Office.

And when the same is so signed, it does passe through the seuerall Seales, and at the last vnder the Great Seale of *England*, which course, I vnderstand not to be altered as yet: howsoeuer I may suspect, in regard of the many new Instructions which haue issued of late times, for the ordering of the affaires of this Court, that some

some small difference may *intercedere*, &c.

When your said Patent is so sealed, you are to deliuer the same and the Schedule of the value of the Land to the Auditor of the Court, who is to see that the same bee forthwith enrolled.

And thereupon the Auditor will giue order to the Feodarie of the Shire, to pay you the exhibition yeerely, &c.

The charges of obtaining a Ward, doe follow.

Feod. sequuntur.

	l.	s.	d.
IN primis, for the Commission to find the Tenure for the King	0	15	0
Item, the Returne therefore to the Clerke of the Petty-Bagge,	0	16	0
Item, the Copie of the said Office at eight pence the sheete,	8. *pence the sheete.*		
Item, to the Clerke of the petty Bagge for examining of the same,	0	2	0
Item, for making of the Bargaine,	2	0	0
Item, to the said Officers Clerke who maketh the same,	0	14	4
Item, for making of three Obligations,	0	16	0

Item,

	l.	s.	d.
Item, for the Commission for sealing of the Bargaine & Obligation in the Country, in case where the partie Grantee or his Sureties be not in towne to Seale, ——	0	5	6
Item, to Master Attourneies man for the *Affedauit inde*,	0	0	4
For drawing of the *Schedule*.	0	6	8
For drawing of the Bill to bee signed, and getting of the Kings hand vnto it. —— —— ——	0	6	8
To the Clerke for writing of the said Bill, —— —— ——	0	3	4
To him more for entring the same into the Booke, —— ——	0	2	0
To the Auditor for enrolling of the Patent and *Schedule* of the Land, —— —— —— —— ——	0	13	4 *or rather, as you can agree.*
To the Clerke for writing of the *Schedule*, —— —— ——	0	1	0

Besides the Copie of the Office, --*vt supra.*

Thus I conclude with this Court, giuing you farther to take in direction, that you examine these with the lateſt Bookes of Inſtructions giuen and publiſhed in Print for the ordering of this Court; whereby you ſhall the better diſcerne the alterations, if any be.

FOr the Ideot, I had almoſt forgot him; Howſoeuer the matter is not great: For it is but a fooliſh buſineſſe when all is done.

You

You haue a faire example of a Lunaticke before your eyes, and therefore I ſhall only neede to giue you this monitorie inſtruction touching an Ideot: That you be aſſured that your ſelfe is ſomewhat the wiſer man, before you goe about to beg him, or elſe neuer medle with him at all, leſt you chance to play at *handy dandy*, which is the Gardian, or which is the foole? and the caſe alter *è Converſo, ad Converſum*. I pray let vs haue no *Platonisme* in the matter: And ſo much for the Ideot.

THE COVRT OF PARLIAMENT.

I should say somewhat touching that great Court of Record, The Parliament. But the obiect is so farre remoued from my sight, that I cannot presume a certaine representation, with these weake *species* of eying those mysteries: I make bold by way of Explanation, Introduction and Deduction of Sir *Thomas Smithes* Common-wealth, to deliuer this onely.

YOu shall vnderstand thet all the Law of this Land which is Positiue, doth consist either in { Acts of *Parliament*: or, *Proclamations*.

For the Acts of Parliament, publique or priuate:

uate: They bee all kept and remaine in the Custodie of the Clerkes of the Parliament; Howsoeuer (as I shewed you in the Search of Record) that they are, or at least should bee, in the Chappell of the Rolles likewise, and most of them are brought ouer thither by *Certiorare, vt ibidem, &c.*

These Acts (as you may reade) are made and established by the King, the Peeres and Commons of the Land, so stably and sanctedly, that they be taken for Law.

And that you may the better conceiue, what are the businesses, what the practice, and what consequently the Records of this Court, I will briefely receite the very words of Sir *Thomas Smith* to that point onely:

(viz.)

The Parliament Abrogateth old Lawes; Maketh new; Giueth order for things past, and for things hereafter to bee followed; Changeth right and possessions of priuate men; Legitimateth Bastards; Establisheth formes of Religion; Altereth weights and measures; Giueth forme of Succession to the Crowne; Decideth of doubtfull Rights and Titles, whereof there is no Law already made; Appointeth Subsidies, Tailes, Taxes, and Impositions; Giueth most free Pardons and Absolutions; Restoreth in Bloud, and Name; Naturalizeth Aliens borne out of the Kings Allegeance, and to bee short,

All that euer the people of *Rome* might doe either in *Centuriatis comitijs*, or *Tribunitijs*, the same may bee done by the Parliament of *England*: And so much to the current of his streame.

It is euident, that this is the higheſt Court of this Realme, becauſe the Authoritie of it is abſolute, and bindeth all manner of perſons, For that they are all parties and priuies thereunto, by way of Repreſentation, &c.

Vnto this High Court doe come ſome, ——— 1. By reaſon of their Tenure. 2. By vertue of Writ. 3. By vertue of Office.

There doe come by reaſon of Tenure theſe: (*viz.*) Archbiſhops, Biſhops, Abbots, Priors, Dukes, Marqueſſes, Earles, Barons. } *Per tenur.*

Theſe vſe to be ſummoned to appeare by the ſpace of forty dayes before the Parliament.

They who doe come in by Writ, are theſe: (*viz.*) Knights of the Shires, Burgeſſes, Citizens of Cities, Barons of the 5. Ports, The Kings Councell. } *per brev.*

There

There doe come hither also by Writ, directed to the seuerall Deanes, and Arch-deacons of this Kingdome: } Two seuerall Proctors of the Clergie, for euery seuerall Deaconrie, & Archdeaconrie: } *per bre.*

These Proctors of the Clergie, be elected by the Clergie also.

And euery of these doe bring with him two Warrants, whereof he keepeth one by himselfe, and the other hee enrolleth with the Clerke of the Parliament.

From hence, some haue gathered an Opinion, That sometimes heretofore the Conuocation house hath beene a member or part of the Parliament House.

But it appeares to bee otherwise in the Case of *Philot*, who being questioned for Heresie, and certaine hereticall words by him spoken, did in his answere alledge, That the words so spoken, were deliuered by him in the Conuocation house, which he held to be a place of freedome and liberty of speech, as being a limme or member of the Parliament House, which assertion was ouer-ruled, And the Conuocation adiudged to be no member of the Parliament House. For though they come by Writ of Summons to the Parliament; Yet they haue no power ouer the Laitie, but onely authoritie to charge the Spiritualtie; Or to make Institutions Prouin-

ciall, as Holy-dayes, Fasting-dayes, and such like; And an Act of Parliament may passe without their consent, priuitie, or interposition in any manner of wise, &c.

Per Seruice.

There doe come hither, by reason and vertue of Office, these; (*viz.*)

1 The chiefe Cryer of *England.*
2 The chiefe *Vsher.*
3 The *Chancellor* } *of the*
4 The *Treasurer* } *Exche-*
5 The *Chamberlain* } *quer.*
6 The *Barons* }
7 The Iustices of either *Bench.*
8 The Steward of *England.*
9 The Porter.
10 Groomes.
11 And all tyed by seruice to be here done, &c.

The Stewards Office hath beene to place the Lords there.

The Porter hath vsed to see that there be but one doore, at which to goe in and out.

And euery one of the aboue-named Officers hath had his seuerall charge respectiuely.

The

The Allowance of the Knight, Burgesses, and Barrons of the Cinque-Ports follow: (viz.)

EVery Knight of the Shire hath vsed to haue the Allowance of a Mark by the day, to be payed by the Countie whereof he is Knight; And this may bee leuied by Distresse, &c.

Knight: — 13.s.— 4.d. *per diem.*

Burgesses and Barons of the Cinque-ports.

These haue not vsed to haue *per diem* aboue 10.s. *per* piece for expences.

And for the leuying of this, They haue not vsed to Distreyne, but haue tooke forth a Writ vnder the Great Seale of *England*.

The Writ for the Barons of the Ports, is directed to the Warden.

The Writ for the Burgesses, is directed to the chiefe Magistrates of the Citie or Towne Corporate for which they are Burgesses.

And the bodies for whom the fore-named persons are imployed, must pay the Fine for their default, &c.

As

	As,	l.	s.	d.
For the first day wherein the Burgesse shall be called, and appeares not, his Borough shall pay	}	0	100	0
If at the second day, the Knight of the Shire doe not appeare, his Shire shall pay	}	100	0	0
If at the third day a Baron of the Cinque-ports shall not appeare, those of the Cinque-ports shall pay	}	66	6	8
If at the fourth day, the *Procter* of the Clergie doe make default, his Bishop shall pay	}	100	0	0

And if all the Bishops, and all the Lords Spirituall and Temporall bee absent, having lawfull Summons; Many are of opinion, That the King with this Commonaltie may proceed alone.

The officers in Parliament are: The Speaker. Two Clerkes.

Of which Clerkes, one is for the Vpper House, and the other for the Lower House.

The Speaker he doth commend and preferre the Bils exhibited into the Parliament.

The Speaker is vsually appointed and nominated by the King, though accepted by the House: And the Lord *Keeper* or Lord *Chancellour* vseth commonly, *pro forma*, on the first day of a Parliament to speake to the House, that they

they make choyce, and name one to bee their Speaker &c.

The Clerkes are *Custodes Rotulorum Parliamenti.*

Touching their Fees: *Non altum sapimus*, &c.

And thus I conclude with the Parliament.

For the other part of Positiue Law, which does consist in Proclamations: I may onely say what they are, And what is the power of them, according to the common receiued opinion; and farther I intend not any speculation into them.

Proclamations are, where the King and his Councell thinke fit and expedient to publish any thing as a Law.

The effect and power of them, as also the paine of him that breaketh the same, you may reade in diuers Treaties vpon this subiect; In all which I finde this generall consent, That if the Ordinance or Proclamation so made, bee in supplement or Declaration of a Law that hath been formerly made and beene good; It is to bee obeyed as a Law, and the breaker thereof is to vndergoe the paine of him that breaketh a Law and his Allegeance, &c. So did those *Prouisiones Merton* attaine, & to this day doe hold the name and reputation of the Statute of *Merton*, &c.

Dixi.

THE OFFICE OF AN ESCHETER

is ſet forth in theſe few lines following: (*viz*)

REgia demandunt breuia Eſchætoribus *iſta*
Cognoſcenda; ſibi Quæ ſint Attinctia donet;
Quantum de ſeſe; Quantū de aliis q; tenebat;
Per quæ ſeruitia tenuit; Quantum q; valebant
Terræ: Quoq; die fatis conceſſit, Et hæres
Quiſnam proximior; Cuiuſq; ætatis ab ortu.

Note:

Where the value of the Lands to be enquired of, do exceed the value of fiue pounds *per annum*, There he muſt enquire onely by vertue of Writ.

Where the Lands are vnder that value, he may enquire by vertue of office, and that Writ.

In euery caſe the Inquiſition found, muſt bee returned into the *Petty-bagge*, &c.

THE

THE DVCHY COVRT.

THis is a great Court of Record, and it admits Pleas as well reall as personall, as also mixt pleadings, concerning the Lands of the Duchy.

The Iudges here are the *Chancellor* of the Duchy, assisted by his Maiesties Atturney of the Court, and two Iudges of the Common Law, who aduise them for matter or question of Law.

The Rolles and Records of this Courts proceedings, are in the custodie of the Clerke of the same, to whose Office they doe appertaine.

But the Kings Euidence, Leases and Grants of the Duchy Land, as well the Possessions and

Copy-hold, as Fee-simple, and Fee-ferme, are all in the keeping of the Auditors.

The Auditors of the Court are diuers, howsoeuer two are most principall; one whereof for the Lands of the Duchy on this side Trent, and another for the Lands beyond Trent.

There bee diuers Surueyors for the Duchy Lands, for the Suruey of them, but they keepe no Record, vnlesse it bee some models of their owne making.

And so I leaue the Duchy, &c.

THE

THE CONCLVSION.

I Conclude with this humble Requeſt made to thoſe who haue power of Reformation, in this crying reigning euill amongſt Lawyers, touching the diſappointment, and defeate of Clyents cauſes, for which they are retayned and Feed, and yet often fayle to giue attendance in the houre of Tribulation, or to bee neere vnto the Clyent in the day of Viſitation (a foule faule in a friend, but worſe in a ſeruant.)

It may therefore pleaſe thoſe in Authoritie to giue the abuſe this proper redreſſe; (viz.) *That if any one of them take his Fee to bee of counſaile, and to attend at ſuch a certaine time and place, and ſhall notwithſtanding fayle; The partie who ſo Feed him, vpon complaint to the Iudge before whom he*

was feed to be, may haue his Fee returned againe, with such Dammage as hee shall make appeare to the said Iudge that hee hath sustained by the Absence of such Counsaile, And that in case it shall bee proued that hee absented himselfe in fauour of the aduerse party, hee may bee fore-iudged his practice, and receiue some other fitting and exemplary punishment in that behalfe.

FINIS.

Fœlix quem nulla Cyconia pinsit.

T. P.

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THE

THE

OATH

WHICH AN ATTOVRNEY WAS ANciently wont to take vpon his *Admission, being now disused, And in stead thereof, the* Oath *of* Allegeance *is only ministred; howsoeuer both would doe better.*

YOv shall doe no Falshood, nor cause any to bee done in the Court: And if you know of any to be done, you shall giue knowledge thereof to my Lord chiefe Iustice or some of his brethren, that it may be reformed: you shall delay no man for Lucre or Malice; Nor shall increase any Fees, but be content with the

the old Fees accuſtomed : You ſhall pleade no Forraigne *Plea*, Nor ſue any Forraigne Suite vnlawfully to the hurt of any man; But you ſhall ſue ſuch onely, as ſhall ſtand with the order of Lawe and a good Conſcience : You ſhall ſeale all ſuch Proces as you ſhall ſue out of this Court with the Seale thereof onely, and ſee the Kings Maieſtie, and my Lord chiefe Iuſtice diſcharged for the ſame : You ſhall not wittingly ſue, or procure to be ſued any falſe Suite, or giue aide or conſent to the ſame, on paine to be expulſed the Court for euer : And further, you ſhall beare your ſelfe honeſtly and vprightly in the Office of an Attourney of the Court, according to your beſt Learning and Diſcretion, and as good Conſcience bindeth you. So help you God, &c.

NOVV

I bring the Returnes themſelues home in the Rere of my Booke, as being the only Leaders of Attourneies proceedings, and the Practice being paſt before : they offer themſelues in the laſt place, beeing moſt markable and ready to euery hand, as occaſion may require.

The

The foure Termes with their Returnes.

Hillary Terme beginneth *Ianuary* 23. and endeth *February* 12.

Returne Dayes, or, Essoyne Dayes.	Exception day.	Returna Brevium.	Appearance dayes.
Octabis Hill. Ian. 23.	Ianu. 24.	Ianu. 25.	Ian. 26.
Quind. Hill. Ianu. 27.	Ianu. 28.	Ianu. 29.	Ian. 30.
Craſt. Purif. Febru. 3.	Febru. 4.	Febru. 5.	Febru. 6.
Octab. Purif. Febru. 10.	Febru. 11.	Febru. 12.	Febru. 13.

Eaſter Terme begins *April* 30. and endeth *May* 26.

Quind. Paſch. Apr. 30.	May 1.	May 2.	May 3.
Trees Paſch. May 5.	May 6	May 7	May 8.
Menſe. Paſch. May 12.	May 13.	May 14.	May 15.
Quinq. Paſch. May 19.	May 20.	May 21.	May 22.
Craſt. Aſcen. May 23.	May 24.	May 25.	May 26.

Trinity Terme begins *June* 13. and endeth *July* 2.

Craſt. Trin. Iune 9.	Iune 10.	Iune 11.	Iune 12.
Octab. Trin. Iune 16.	Iune 17.	Iune 18.	Iune 19.
Quind. Trin. Iune 23.	Iune 24.	Iune 25.	Iune 26
Tres Trin. Iune 30.	Iuly 1.	Iuly 2.	Iuly 3.

Michalemas Terme begins, *October* 9. and endeth *Nouember* 28.

Octab. Mich. Octob. 6.	Octob. 7.	Octob. 8.	Octob. 9.
Quind. Mich. Octo. 13.	Octob. 13.	Octob. 15.	Octob. 16.
Tres Mich. Octob. 20.	Octob. 21.	Octob. 22.	Octob. 23.
Menſe Mich. Octo. 27.	Octob. 28.	Octob. 29.	Octob. 30
Craſt. anim. Nouem. 3.	Nouemb. 4.	Nouemb. 5.	Nouemb. 6.
Craſt. Mart. Nouem. 12.	Nouemb. 13.	Nouemb. 14.	Nouemb 15.
Octab. Mart. Nou. 18.	Nouem. 19.	Nouemb. 20.	Nouemb. 21.
Quind. Mart. Nou. 25.	Nouem. 26.	Nouemb. 27.	Nouemb. 28.

The Law-Dayes in the Courts of

{ Arches, Audience, Prerogatiue, } { Consistory, Delegats, Admiralty. }

In *Hillary* Terme:	S. *Hillary*	13	January.
	S. *Wolston*	19	
	Conuersio S. Pauli	25	
	S. *Scholastic.*	10	February.
	S. *Valentine*	14	
In *Easter* Terme:	*Quind. Pasch.*	28	Aprill.
	S. *Gordian*	10	May.
	Ascension day.	22	
In *Trinitie* Terme:	*Corpus Christi*	12	June.
	S. *Buttolph*	17	
	S. *John Baptist*	24	
	S. *Paul.*	30	
In *Michaelmas* Terme:	S. *Faith*	6	October.
	S. *Edward*	13	
	All Soules	2	November.
	S. *Martin*	11	
	S. *Edmund.*	20	

And when and where, their seuerall Courts are seuerally and respectiuely kept, you shall reade in the common Almanacke at large.

FINIS.

——*Cum tonat ocyùs Ilex,*
Sulphure diſcutitur ſacro quam tuq; Domuſq;.

T. P.

Rhe 8
III 26/66